

LEGISLATIVE BILL 994

Approved by the Governor April 12, 2006

Introduced by Health and Human Services Committee: Jensen, 20, Chairperson; Byars, 30; Cunningham, 40; Erdman, 47; Howard, 9; Johnson, 37; Stuthman, 22; Thompson, 14

AN ACT relating to public health and welfare; to amend sections 43-522, 43-524, 43-2505, 43-2507, 43-2508, 43-2509, 43-2510, 43-2512, 43-2606, 43-3401, 43-3402, 68-1204, 68-1205, 68-1206, 68-1402, 68-1403, 68-1405, 68-1503, 68-1514, 68-1521, 68-1522, 68-1523, 68-1713, 68-1721, 71-193.01, 71-193.02, 71-193.03, 71-2225, 71-2803, 71-2804, 71-2807, 71-2810, 71-3515.01, 71-3515.02, 71-3516, 71-7401, 71-7402, 71-7403, 71-7404, 71-7405, 71-7406, 71-7407, 71-7408, 71-7409, 71-7410, 71-7411, 71-7412, 71-7413, 71-7416, 71-7417, 71-7420, 71-7422, 71-7423, 71-7424, 71-7425, 71-7426, 79-1902, 80-315, 81-647, 81-668, 81-671, 81-3007.01, and 83-107.01, Reissue Revised Statutes of Nebraska, sections 20-162, 28-356, 28-372, 28-380, 71-113, 71-162, 71-612, 71-617.15, 71-627, 71-628, 71-634, 71-801, 71-802, 71-814, 71-1910, 71-1911, 71-1911.02, 71-1914, 71-1916, 81-1316, 81-3008, and 81-3009, Revised Statutes Cumulative Supplement, 2004, and sections 68-1021.01, 71-101, 71-1,104.01, 71-815, 71-816, 71-1721, 71-3503, and 71-3519, Revised Statutes Supplement, 2005; to define and redefine terms; to change, eliminate, and transfer provisions relating to the Wholesale Drug Distributor Licensing Act and physical therapy; to adopt the Rural Behavioral Health Training and Placement Program Act, the Immunosuppressant Drug Repository Program Act, and the Physical Therapy Practice Act; to adopt federal law by reference; to change provisions relating to child care regulation and welfare reform; to change membership on the Board of Veterinary Medicine and Surgery; to change the name of the Division of Dental Health; to transfer powers and duties to the Department of Health and Human Services Finance and Support relating to home and community-based services for the elderly and children with disabilities, medically handicapped children, early intervention services for children and families, respite lifespan services, and adult protective services; to change provisions relating to fees for vital records, nurse practitioners, food programs, medical records, health information, and veterans' homes; to change and eliminate provisions relating to the Nebraska Behavioral Health Services Act and the Radiation Control Act; to provide an exemption from the State Personnel System; to create the position of system chief administrative officer for the Nebraska Health and Human Services System; to eliminate the position of Policy Secretary and the State Behavioral Health Council; to state intent and provide powers and duties relating to sudden infant death syndrome and shaken baby syndrome; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 71-2801, 71-2802, 71-2803.01, 71-2805, 71-2808, 71-2809, 71-2811, 71-2812, 71-2814, 71-2815, 71-2816, 71-2817, 71-2819, 71-2820, 71-2821, 71-2822, 71-2823, 71-7414, 71-7415, 71-7418, 71-7419, and 71-7421, Reissue Revised Statutes of Nebraska, sections 71-819, 71-820, and 71-1917, Revised Statutes Cumulative Supplement, 2004, and section 71-813, Revised Statutes Supplement, 2005; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-7401, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-7401~~ Sections ~~71-7401~~ ~~to~~ ~~71-7426~~ 1 to 37 of this act shall be known and may be cited as the Wholesale Drug Distributor Licensing Act.

Sec. 2. Section 71-7402, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-7402~~ For purposes of the Wholesale Drug Distributor Licensing Act, the definitions found in sections ~~71-7403~~ ~~to~~ ~~71-7413~~ shall be used 3 to 20 of this act apply.

Sec. 3. Section 71-7403, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-7403~~ Blood shall mean means whole blood collected from a single donor and processed either for transfusion or further manufacturing.

Sec. 4. Section 71-7404, Reissue Revised Statutes of Nebraska, is

amended to read:

~~71-7404~~ Blood component ~~shall mean~~ means that part of blood separated by physical or mechanical means.

Sec. 5. Section 71-7405, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-7405~~ Board ~~shall mean~~ means the Board of Pharmacy.

Sec. 6. Chain pharmacy warehouse means a facility utilized as a central warehouse for intracompany sales or transfers of prescription drugs or devices by two or more pharmacies operating under common ownership or common control.

Sec. 7. Section 71-7406, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-7406~~ Common control ~~shall mean~~ means that the power to direct or cause the direction of the management and policies of a person or an organization by ownership of stock or voting rights, by contract, or otherwise is held by the same person or persons.

Sec. 8. Section 71-7407, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-7407~~ Department ~~shall mean~~ means the Department of Health and Human Services Regulation and Licensure.

Sec. 9. Section 71-7408, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-7408~~ Drug sample ~~shall mean~~ means a unit of a prescription drug intended to promote the sale of the drug and not intended to be sold.

Sec. 10. Section 71-7409, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-7409~~ Emergency medical reasons ~~shall mean~~ means the alleviation of a temporary shortage by transfers of prescription drugs between any of the following: (1) Holders of pharmacy licenses, holders of pharmacy inspection certificates (2) health care practitioner facilities as defined in section 71-414, (3) hospitals as defined in section 71-419, and (4) practitioners as defined in section 71-1,142.

Sec. 11. Facility means a physical structure utilized by a wholesale drug distributor for the storage, handling, or repackaging of prescription drugs or the offering of prescription drugs for sale.

Sec. 12. Section 71-7410, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-7410~~ Manufacturer ~~shall mean~~ means any entity engaged in manufacturing, preparing, propagating, compounding, processing, packaging, repackaging, or labeling a prescription drug.

Sec. 13. (1) Normal distribution chain means the transfer of a prescription drug or the co-licensed product of the original manufacturer of the finished form of a prescription drug along a chain of custody directly from the manufacturer or co-licensee of such drug to a patient or ultimate consumer of such drug.

(2) Normal distribution chain includes transfers of a prescription drug or co-licensed product:

(a) From a manufacturer or co-licensee to a wholesale drug distributor, to a pharmacy, and then to a patient or a patient's agent;

(b) From a manufacturer or co-licensee to a wholesale drug distributor, to a pharmacy, to a health care practitioner, health care practitioner facility, or hospital, and then to a patient or a patient's agent;

(c) From a manufacturer or co-licensee to a wholesale drug distributor, to a chain pharmacy warehouse, to a pharmacy affiliated with the chain pharmacy warehouse, and then to a patient or a patient's agent;

(d) From a manufacturer or co-licensee to a chain pharmacy warehouse, to a pharmacy affiliated with the chain pharmacy warehouse, and then to a patient or a patient's agent; or

(e) Recognized in rules and regulations adopted and promulgated by the department.

(3) For purposes of this section, co-licensed products means prescription drugs that have been approved by the federal Food and Drug Administration and are the subject of an arrangement by which two or more parties have the right to engage in a business activity or occupation concerning such drugs.

Sec. 14. Pedigree means a written or electronic documentation of every transfer of a prescription drug as provided in sections 29 and 30 of this act.

Sec. 15. Section 71-7411, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-7411~~ Prescription drug ~~shall mean~~ means any human drug required

by federal law or regulation to be dispensed only by prescription, including finished dosage forms and active ingredients subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act, as such section existed on the operative date of this act.

Sec. 16. Repackage means repackaging or otherwise changing the container, wrapper, or labeling of a prescription drug to facilitate the wholesale distribution of such drug.

Sec. 17. Repackager means a person who repackages.

Sec. 18. Section 71-7412, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-7412~~ (1) Wholesale drug distribution ~~shall mean~~ means the distribution of prescription drugs to a person other than a consumer or patient.

(2) Wholesale drug distribution ~~shall~~ does not include:

~~(1)~~ (a) Intracompany sales which shall mean of prescription drugs, including any transaction or transfer between any division, subsidiary, or parent company and an affiliated or related company under common ownership or common control;

~~(2)~~ The purchase or other acquisition of a drug by a hospital or other health care entity that is a member of a group purchasing organization from such organization or from other members of such organization for the use of the purchasing or acquiring hospital or entity;

~~(3)~~ (b) The sale, purchase, or trade of or an offer to sell, purchase, or trade a prescription drug by a charitable organization described in section 501(c)(3) of the Internal Revenue Code, a state, a political subdivision, or another any other governmental agency to a nonprofit affiliate of the organization, to the extent otherwise permitted by law;

~~(4)~~ (c) The sale, purchase, or trade of or an offer to sell, purchase, or trade a prescription drug among hospitals or other health care entities that are operating under common ownership or common control;

~~(5)~~ (d) The sale, purchase, or trade of or an offer to sell, purchase, or trade a prescription drug for emergency medical reasons;

~~(6)~~ (e) The sale, purchase, or trade of, an offer to sell, purchase, or trade, or the dispensing of a prescription drug pursuant to a prescription;

~~(7)~~ (f) The distribution of drug samples by representatives of a manufacturer or of a wholesale drug distributor; or

~~(8)~~ (g) The sale, purchase, or trade of blood and blood components intended for transfusion; or

(h) The delivery of or the offer to deliver a prescription drug by a common carrier solely in the usual course of business of transporting such drugs as a common carrier if the common carrier does not store, warehouse, or take legal ownership of such drugs.

Sec. 19. Section 71-7413, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-7413~~ (1) Wholesale drug distributor shall mean means any person or entity located in this state and engaged in wholesale drug distribution in this state, including manufacturers, repackers repackagers, own-label distributors, jobbers, private-label distributors, brokers, warehouses including manufacturer and distributor warehouses, chain drug pharmacy warehouses, and wholesale drug warehouses, wholesale medical gas distributors, independent wholesale drug traders, and retail pharmacies that conduct engage in wholesale drug distribution in this state.

(2) Wholesale drug distributor shall does not include any a common carrier for hire or other person or entity hired solely to transport prescription drugs if the common carrier, person, or entity does not store, warehouse, or take legal ownership of such drugs.

Sec. 20. Wholesale medical gas distributor means any person engaged in the wholesale drug distribution of medical gases provided to suppliers or other entities licensed or otherwise authorized to use, administer, or distribute such gases.

Sec. 21. Section 71-7417, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-7417~~ (1) No person shall or entity may act as a wholesale drug distributor in this state without first obtaining a wholesale drug distributor license from the department. If the applicant is an individual, the application shall include the applicant's social security number. The department shall issue a license upon the recommendation of the board that the to any applicant meets that satisfies the requirements for licensure stated in under the Wholesale Drug Distributor Licensing Act. Manufacturers are exempt from any licensing and other requirements of the act to the extent not required by federal law or regulation except for those requirements deemed necessary and appropriate under rules and regulations adopted and promulgated

by the department, and upon payment of a fee established and collected as provided in section 71-162.

(2) Wholesale medical gas distributors shall be exempt from any licensing and other requirements of the Wholesale Drug Distributor Licensing Act to the extent not required under federal law but shall be licensed as wholesale drug distributors by the department for the limited purpose of engaging in the wholesale distribution of medical gases upon application to the department, payment of a licensure fee, and inspection of the applicant's facility by the department, except that the applicant may submit and the department may accept an inspection accepted in another state or an inspection conducted by a nationally recognized accreditation program approved by the board. For purposes of such licensure, wholesale medical gas distributors shall only be required to provide information required under subdivisions (1) (a) through (1) (c) of section 22 of this act. A separate wholesale drug distributor license shall be required for each facility located within this state and directly or indirectly owned or operated by the same business entity or parent entity.

(3) The Wholesale Drug Distributor Licensing Act does not apply to:

(a) An agent or employee of a licensed wholesale drug distributor need not be licensed under the act and may lawfully possess who possesses drug samples when such agent or employee is acting in the usual course of his or her business or employment; or -

(4) No license is required for any (b) Any person who (a) (i) engages in a wholesale transaction relating to the manufacture, distribution, sale, transfer, or delivery of medical gases the gross dollar value of which does not exceed five percent of the total retail sales of medical gases by such person during the immediately preceding calendar year and (b) (ii) has either a pharmacy permit or license or a drug dispensing permit or delegated dispensing permit.

(5) The issuance of a license pursuant to the act shall not change or affect tax liability to the State of Nebraska of any wholesale drug distributor.

Sec. 22. (1) Every applicant for an initial or renewal license as a wholesale drug distributor shall file a written application with the department. The application shall be accompanied by the fee established by the department under section 24 of this act and proof of bond or other security required under section 26 of this act and shall include the following information:

(a) The applicant's name, business address, type of business entity, and telephone number. If the applicant is a partnership, the application shall include the name of each partner and the name of the partnership. If the applicant is a corporation, the application shall include the name and title of each corporate officer and director, all corporate names of the applicant, and the applicant's state of incorporation. If the applicant is a sole proprietorship, the application shall include the name of the sole proprietor and name of the proprietorship;

(b) All trade or business names used by the applicant;

(c) The addresses and telephone numbers of all facilities used by the applicant for the storage, handling, and wholesale distribution of prescription drugs and the names of persons in charge of such facilities. A separate license shall be obtained for each such facility;

(d) A listing of all licenses, permits, or other similar documentation issued to the applicant in any other state authorizing the applicant to purchase or possess prescription drugs;

(e) The names and addresses of the owner and manager of the applicant's wholesale drug distribution facilities, a designated representative at each such facility, and all managerial employees at each such facility; and

(f) Other information as required by the department, including affirmative evidence of the applicant's ability to comply with the Wholesale Drug Distributor Licensing Act and rules and regulations adopted and promulgated under the act.

(2) The department may require persons listed on the application to pass an examination approved by the department on laws pertaining to the wholesale distribution of prescription drugs.

(3) The application shall include the applicant's social security number if the applicant is an individual. The social security number shall not be a public record and may only be used by the department for administrative purposes.

(4) The application shall be signed by (a) the owner, if the applicant is an individual or partnership, (b) the member, if the applicant is a limited liability company with only one member, or two of its members, if

the applicant is a limited liability company with two or more members, or (c) two of its officers, if the applicant is a corporation.

(5) The designated representative and the supervisor of the designated representative of a wholesale drug distributor and each owner with greater than a ten percent interest in the wholesale drug distributor, if the wholesale drug distributor is a nonpublicly held company, shall be subject to a criminal history record information check and shall provide the department or the designated agent of the department with a complete set of fingerprints for such purpose if his or her fingerprints are not already on file for such purpose. The department or the designated agent of the department shall forward such fingerprints to the Nebraska State Patrol to be submitted to the Federal Bureau of Investigation for a national criminal history record information check. Such persons shall authorize the release of the results of such criminal history record information check to the department, and the applicant shall pay the actual cost of such fingerprinting and such criminal history record information check.

(6) The department may waive certain requirements under this section upon proof satisfactory to the department that such requirements are duplicative of other requirements of law or regulation and that the granting of such exemption will not endanger the public safety.

Sec. 23. Each designated representative named under subdivision (1)(e) of section 22 of this act shall provide the following information prior to the issuance of an initial or renewal license under such section:

(1) The designated representative's places of residence for the immediately preceding seven years;

(2) The designated representative's date and place of birth;

(3) All occupations, positions of employment, and offices held by the designated representative during the immediately preceding seven years and the principal businesses and the addresses of any business, corporation, or other organization in which such occupations, positions, or offices were held;

(4) Whether the designated representative has been, at any time during the immediately preceding seven years, the subject of any proceeding for the revocation of any license and, if so, the nature of the proceeding and its disposition;

(5) Whether the designated representative has been, at any time during the immediately preceding seven years, either temporarily or permanently enjoined by a court of competent jurisdiction from violations of any federal or state law regulating the possession, control, or distribution of prescription drugs, and, if so, the details of such order;

(6) A description of any involvement by the designated representative during the immediately preceding seven years, other than the ownership of stock in a publicly traded company or mutual fund, with any business which manufactured, administered, distributed, or stored prescription drugs and any lawsuits in which such businesses were named as a party;

(7) Whether the designated representative has ever been convicted of any felony and details relating to such conviction; and

(8) A photograph of the designated representative taken within the immediately preceding thirty days.

Sec. 24. (1) Licensure activities under the Wholesale Drug Distributor Licensing Act shall be funded by license fees. An applicant for an initial or renewal license under the act shall pay a license fee as provided in this section.

(2) License fees shall include (a) a base fee of fifty dollars and (b) an additional fee of not more than five hundred dollars based on variable costs to the department of inspections and of receiving and investigating complaints, other similar direct and indirect costs, and other relevant factors as determined by the department.

(3) If the licensure application is denied, the license fee shall be returned to the applicant, except that the department may retain up to twenty-five dollars as an administrative fee and may retain the entire license fee if an inspection has been completed prior to such denial.

(4) The department shall also collect a fee for reinstatement of a license that has lapsed or has been suspended or revoked. The department shall collect a fee of ten dollars for a duplicate original license.

(5) The department shall remit all license fees collected under this section to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund. License fees collected under this section shall only be used for activities related to the licensure of wholesale drug distributors.

Sec. 25. Section 71-7420, Reissue Revised Statutes of Nebraska, is amended to read:

71-7420 A wholesale drug distributor license shall expire on July

1 of each year and may be renewed. The license shall not be transferable. The annual renewal fee shall be established and collected as provided in section 71-162. The department shall mail an application for renewal to each licensee not later than June 1 of each year. If an application for renewal is received from the licensee after July 1, the department may impose a late fee as provided in section 71-162 and the department shall refuse to issue the license until such late fee is paid in addition to the and renewal fee are paid. Failure to receive an application for renewal shall not relieve the licensee from the late fee imposed by this section.

Sec. 26. An applicant for an initial or renewal license as a wholesale drug distributor shall submit to the department proof of a bond of not less than one hundred thousand dollars or other equivalent means of security acceptable to the department. The bond or other security shall be given for the purpose of securing payment of any fines or other penalties imposed by the department and any fees or costs incurred by the department relating to such applicant as authorized under the Wholesale Drug Distributor Licensing Act or rules and regulations adopted and promulgated under the act which remain unpaid by the applicant within thirty days after such fines, penalties, and costs become final. The department may make a claim against such bond or security until one year after the expiration of the license issued to the applicant under the act.

Sec. 27. Section 71-7424, Reissue Revised Statutes of Nebraska, is amended to read:

71-7424 (1) The department may conduct inspections during normal business hours upon premises purporting or appearing to be used by a wholesale drug distributor in this state. Persons conducting such inspections shall show appropriate identification prior to being permitted access to a wholesale drug distributor's premises and delivery vehicles.

(2) A wholesale drug distributor may keep records regarding purchases and sales at a location apart from its principal office or the location at which the drugs are stored and from which they are shipped, if the records can be made available for inspection within two working days after a request by the department and the board. The records may be kept in any form permissible under federal law applicable to record keeping for prescription drugs. (1) Each wholesale drug distributor doing business in this state shall be inspected by the department or a nationally recognized accreditation program that is approved by the board and that is acting on behalf of the department prior to the issuance of an initial or renewal license by the department under section 22 of this act.

(2) The department or such nationally recognized accreditation program may provide for the inspection of any wholesale drug distributor licensed to engage in wholesale drug distribution in this state in such manner and at such times as provided in rules and regulations adopted and promulgated by the department. As part of any such inspection, the department may require an analysis of suspected prescription drugs to determine authenticity.

(3) The department may accept an inspection accepted in another state in lieu of an inspection by the department or a nationally recognized accreditation program under this section.

(4) The department or such nationally recognized accreditation program may charge and collect fees for inspection activities conducted under this section.

(5) In addition to or in lieu of the authority to inspect for purposes of licensure and renewal, the department may adopt and promulgate rules and regulations which permit the use of alternative methods for assessing the compliance by a wholesale drug distributor with the Wholesale Drug Distributor Licensing Act and the rules and regulations adopted and promulgated under the act.

Sec. 28. Section 71-7416, Reissue Revised Statutes of Nebraska, is amended to read:

71-7416 (1) No wholesale drug distributor, manufacturer, or pharmacy shall knowingly purchase or receive any prescription drug from any source other than a person or entity licensed pursuant to under the Wholesale Drug Distributor Licensing Act except transfers for emergency medical reasons, the gross dollar value of which shall not exceed five percent of the total prescription drug sales revenue of the transferor or transferee holder of a pharmacy license, holder of a pharmacy inspection certificate, or practitioner as defined in section 71-1,142 during the immediately preceding calendar year, and except as otherwise provided in the act.

(2) A wholesale drug distributor may receive returns or exchanges of prescription drugs from a pharmacy, chain pharmacy warehouse, health care practitioner facility as defined in section 71-414, or hospital as defined in section 71-419 pursuant to the terms and conditions agreed upon between such

wholesale drug distributor and such pharmacy, chain pharmacy warehouse, health care practitioner facility, or hospital. Such returns and exchanges shall not be subject to sections 29 to 31 of this act. A wholesale drug distributor shall not receive from a pharmacy, chain pharmacy warehouse, health care practitioner facility, or hospital an amount or quantity of a prescription drug greater than the amount or quantity that was originally sold by the wholesale drug distributor to such pharmacy, chain pharmacy warehouse, health care practitioner facility, or hospital.

(3) A manufacturer or wholesale drug distributor shall furnish prescription drugs only to persons licensed by the department and shall verify such licensure before furnishing prescription drugs to a person not known to the manufacturer or wholesale drug distributor.

(4) Prescription drugs furnished by a manufacturer or wholesale drug distributor shall be delivered only to the premises listed on the license, except that a manufacturer or wholesale drug distributor may furnish prescription drugs to a person licensed by the department or his or her agent at the premises of the manufacturer or wholesale drug distributor if:

(a) The identity and authorization of the recipient is properly established; and

(b) This method of receipt is employed only to meet the prescription drug needs of a particular patient of the person licensed by the department.

(5) Prescription drugs may be furnished to a hospital pharmacy receiving area. Receipt of such drugs shall be acknowledged by written receipt signed by a pharmacist or other authorized personnel. The receipt shall contain the time of delivery and the type and quantity of the prescription drug received. Any discrepancy between the signed receipt and the type and quantity of prescription drug actually received shall be reported by the receiving authorized pharmacy personnel to the delivering manufacturer or wholesale drug distributor by the next business day after the delivery to the pharmacy receiving area.

(6) A manufacturer or wholesale drug distributor shall only accept payment or allow the use of credit to establish an account for the purchase of prescription drugs from the owner or owners of record, the chief executive officer, or the chief financial officer listed on the license of a person or entity legally authorized to receive prescription drugs. Any account established for the purchase of prescription drugs shall bear the name of such licensee.

Sec. 29. (1) A wholesale drug distributor engaged in the wholesale distribution of prescription drugs in this state shall establish and maintain accurate records of all transactions regarding the receipt and distribution or other disposition of prescription drugs as provided in this section.

(2) The department shall adopt and promulgate rules and regulations to require that all prescription drugs that leave the normal distribution chain be accompanied by a paper or electronic pedigree as provided in section 30 of this act. Such rules and regulations shall be adopted and promulgated no later than July 1, 2007.

(3) The department shall develop standards and requirements for electronic pedigrees in order to effectively authenticate, track, and trace prescription drugs. Prior to the development of such standards and requirements, the department shall consult with the federal Food and Drug Administration, manufacturers, wholesale drug distributors, pharmacies, and other interested parties regarding the feasibility and the ways, means, and practicality of requiring that all prescription drugs that leave the normal distribution chain be accompanied by an electronic pedigree. The standards and requirements may prescribe the information required to be included as part of the electronic pedigree. Such standards and requirements shall be developed no later than July 1, 2008. All prescription drugs that leave the normal distribution chain shall not be required to be accompanied solely by an electronic pedigree prior to such date.

(4) A retail pharmacy or chain pharmacy warehouse shall comply with the requirements of this section only if the pharmacy or chain pharmacy warehouse engages in the wholesale distribution of prescription drugs in this state.

(5) A wholesale drug distributor, other than the original manufacturer of the finished form of the prescription drug, shall verify all transactions listed on the pedigree before attempting to further distribute such drug.

Sec. 30. (1) The pedigree required under section 29 of this act shall include all necessary identifying information concerning each sale or other transfer in the chain of distribution of the prescription drug from the manufacturer, through acquisition and sale by any wholesale drug distributor or repackager, until final sale to a pharmacy or other person dispensing or

administering such drug, including, but not limited to:

- (a) Name of the prescription drug;
- (b) Dosage form and strength of the prescription drug;
- (c) Size of the container;
- (d) Number of containers;
- (e) Lot number of the prescription drug;
- (f) Name of the original manufacturer of the finished dosage form of the prescription drug;
- (g) Name, address, telephone number, and if available, the email address of each owner of the prescription drug and each wholesale drug distributor who does not take title to the prescription drug;
- (h) Name and address of each location from which the prescription drug was shipped if different from the owner's;
- (i) Transaction dates;
- (j) Certification that each recipient has authenticated the pedigree;
- (k) Name of any repackager, if applicable; and
- (l) Name and address of person certifying the delivery.
- (2) Each paper or electronic pedigree shall be maintained by the purchaser and the wholesale drug distributor for three years from the date of sale or transfer and available for inspection or use upon request of law enforcement or an authorized agent of the department.

Sec. 31. Section 71-7423, Reissue Revised Statutes of Nebraska, is amended to read:

71-7423 (1) A wholesale drug distributor license may be denied, refused renewal, suspended, limited, or revoked by the Director of Regulation and Licensure when the director finds that the applicant or licensee has violated any provisions of the Wholesale Drug Distributor Licensing Act or of the rules and regulations adopted and promulgated under the act or has committed any acts or offenses set forth in section 71-147 or 71-148 or section 33 of this act. All actions and proceedings shall be carried out as specified in sections 71-147 to 71-161.19.

(2) For purposes of this section, applicant or licensee shall include includes, but is not be limited to, the board of directors, chief executive officer, and other officers of the applicant or the entity to which the license is issued and the manager of each site if more than one site is located in this state.

Sec. 32. Section 71-7425, Reissue Revised Statutes of Nebraska, is amended to read:

71-7425 The department, the Attorney General, or any county attorney may institute an action in the name of the state for an injunction or other process against any person to restrain or prevent any violation of the Wholesale Drug Distributor Licensing Act or any rules and regulations adopted pursuant to and promulgated under the act.

Sec. 33. Section 71-7426, Reissue Revised Statutes of Nebraska, is amended to read:

71-7426 (1) The department, upon issuance of a final disciplinary action against a person who violates any provision of section 71-7416 28 of this act, shall assess a fine of one thousand dollars against such person. For each subsequent final disciplinary action for violation of such section issued by the department against such person, the department shall assess a fine of one thousand dollars plus one thousand dollars for each final disciplinary action for violation of such section previously issued against such person, not to exceed ten thousand dollars.

(2) The department, upon issuance of a final disciplinary action against a person who fails to provide an authorized person the right of entry provided in section 71-7424 27 of this act, shall assess a fine of five hundred dollars against such person. For each subsequent final disciplinary action for such failure issued against such person, the department shall assess a fine equal to one thousand dollars times the number of such disciplinary actions, not to exceed ten thousand dollars. All fines collected under this section shall be remitted to the State Treasurer for credit to the permanent school fund distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 34. (1) If the department finds there is a reasonable probability that (a) a wholesale drug distributor has falsified a pedigree or has sold, distributed, transferred, manufactured, repackaged, handled, or held a counterfeit prescription drug intended for human use and (b) such drug could cause serious, adverse health consequences or death, the department shall issue an order to immediately cease distribution of such drug.

(2) Persons subjected to any order issued by the department under this section shall be provided with notice and an opportunity for an informal

hearing to be held not later than ten days after the date the order was issued. If the department determines, after such hearing, that inadequate grounds exist to support the actions required by the order, the department shall vacate the order.

Sec. 35. It is unlawful for any person to commit or to permit, cause, aid, or abet the commission of any of the following acts in this state:

(1) Any violation of the Wholesale Drug Distributor Licensing Act or rules and regulations adopted and promulgated under the act;

(2) Providing the department, any of its representatives, or any federal official with false or fraudulent records or making false or fraudulent statements regarding any matter under the act;

(3) Obtaining or attempting to obtain a prescription drug by fraud, deceit, or misrepresentation or engaging in misrepresentation or fraud in the distribution of a prescription drug;

(4) Except for the wholesale distribution by manufacturers of a prescription drug that has been delivered into commerce pursuant to an application approved under federal law by the federal Food and Drug Administration, the manufacture, repackaging, sale, transfer, delivery, holding, or offering for sale of any prescription drug that is adulterated, misbranded, counterfeit, suspected of being counterfeit, or otherwise rendered unfit for distribution;

(5) Except for the wholesale distribution by manufacturers of a prescription drug that has been delivered into commerce pursuant to an application approved under federal law by the federal Food and Drug Administration, the adulteration, misbranding, or counterfeiting of any prescription drug;

(6) The receipt of any prescription drug that is adulterated, misbranded, stolen, obtained by fraud or deceit, counterfeit, or suspected of being counterfeit, and the delivery or proffered delivery of such drug for pay or otherwise; and

(7) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of a prescription drug or the commission of any other act with respect to a prescription drug that results in the prescription drug being misbranded.

Sec. 36. Any person who knowingly and intentionally engages in wholesale drug distribution in this state in violation of the Wholesale Drug Distributor Licensing Act is guilty of a Class III felony.

Sec. 37. Section 71-7422, Reissue Revised Statutes of Nebraska, is amended to read:

71-7422 The department, upon the recommendation of the board, shall adopt and promulgate rules and regulations to carry out the Wholesale Drug Distributor Licensing Act.

Sec. 38. Sections 38 to 41 of this act shall be known and may be cited as the Rural Behavioral Health Training and Placement Program Act.

Sec. 39. The Legislature hereby finds and declares that:

(1) Eighty-eight of Nebraska's ninety-three counties are classified as mental and behavioral health profession shortage areas by the federal Health Resources and Services Administration and the Nebraska Department of Health and Human Services;

(2) The Department of Health and Human Services Regulation and Licensure reports that seventy-four percent of the state's psychiatrists, psychologists, and licensed mental health practitioners live and practice in the urban areas of Omaha and Lincoln, which leaves the remaining seventy-two thousand square miles of Nebraska to be covered by approximately one-fourth of the professionals licensed to practice behavioral health in Nebraska;

(3) Thirty-eight Nebraska counties have one or no licensed behavioral health professional; and

(4) Reductions in federal funding will result in the elimination of over five thousand five hundred behavioral health patient visits in rural Nebraska.

Sec. 40. The Rural Behavioral Health Training and Placement Program is created and shall be administered by the Munroe-Meyer Institute at the University of Nebraska Medical Center. The program shall address behavioral health professional shortages in rural areas by:

(1) Offering service learning opportunities for behavioral health professionals to provide integrated mental health services in rural areas;

(2) Educating physicians to integrate behavioral health into primary care practice;

(3) Providing outreach clinical training opportunities in rural areas for interns, fellows, and graduate students from public and private universities and colleges in Nebraska that offer behavioral health graduate education; and

(4) Placing program graduates in primary care practices for the purpose of providing behavioral health patient visits.

Sec. 41. Funding under the Rural Behavioral Health Training and Placement Program Act shall support:

(1) Faculty clinical training activities;

(2) Internship stipends for behavioral health interns and postdoctoral fellows; and

(3) Training and service provision expenses, including, but not limited to, travel to rural clinic sites, equipment, clinic space, patient-record management, scheduling, and telehealth supervision.

Sec. 42. Sections 42 to 49 of this act shall be known and may be cited as the Immunosuppressant Drug Repository Program Act.

Sec. 43. For purposes of the Immunosuppressant Drug Repository Program Act:

(1) Department means the Department of Health and Human Services Regulation and Licensure;

(2) Immunosuppressant drug means anti-rejection drugs that are used to reduce the body's immune system response to foreign material and inhibit a transplant recipient's immune system from rejecting a transplanted organ. Immunosuppressant drugs are available only as prescription drugs and come in tablet, capsule, and liquid forms. The recommended dosage depends on the type and form of immunosuppressant drug and the purpose for which it is being used. Immunosuppressant drug does not include drugs prescribed for inpatient use;

(3) Participant means a transplant center that has elected to voluntarily participate in the program, that has submitted written notification to the department of its intent to participate in the program, and that accepts donated immunosuppressant drugs under the rules and regulations adopted and promulgated by the department for the program;

(4) Prescribing practitioner means a health care practitioner licensed under the Uniform Licensing Law who is authorized to prescribe immunosuppressant drugs;

(5) Prescription drug has the definition found in section 71-1,142;

(6) Program means the immunosuppressant drug repository program established pursuant to section 44 of this act;

(7) Transplant center means a hospital that operates an organ transplant program, including qualifying patients for transplant, registering patients on the national waiting list, performing transplant surgery, and providing care before and after transplant; and

(8) Transplant program means the organ-specific facility within a transplant center. A transplant center may have transplant programs for the transplantation of hearts, lungs, livers, kidneys, pancreata, or intestines.

Sec. 44. The department shall establish an immunosuppressant drug repository program for accepting donated immunosuppressant drugs and dispensing such drugs. Participation in the program shall be voluntary.

Sec. 45. Any person or entity, including, but not limited to, an immunosuppressant drug manufacturer or transplant center, may donate immunosuppressant drugs to a participant or return previously prescribed immunosuppressant drugs to the transplant center where they were originally prescribed.

Sec. 46. (1) An immunosuppressant drug shall only be accepted or dispensed under the program if such drug is in its original, unopened, sealed, and tamper-evident packaging. An immunosuppressant drug packaged in single unit doses may be accepted and dispensed if the outside packaging is opened but the single-unit-dose packaging is unopened. There shall be no limitation on the number of doses that can be donated to the program as long as the donated drugs meet the requirements of this section.

(2) An immunosuppressant drug shall not be accepted or dispensed under the program if (a) such drug bears an expiration date prior to the date of donation or (b) such drug is adulterated or misbranded as described in section 71-2401 or 71-2402.

(3) Subject to limitations provided in this section, unused immunosuppressant drugs dispensed under the medical assistance program may be accepted and dispensed under the immunosuppressant drug repository program.

Sec. 47. (1) A participant shall comply with all applicable provisions of state and federal law relating to the storage, distribution, and dispensing of donated immunosuppressant drugs and shall inspect all such drugs prior to dispensing to determine if the drugs are adulterated or misbranded as described in section 71-2401 or 71-2402 or if the drugs bear an expiration date prior to the date of dispensing. Such drugs shall only be dispensed pursuant to a prescription issued by a prescribing practitioner. Such drugs may be distributed to another participant for dispensing.

(2) Immunosuppressant drugs donated under the program shall not be

resold.

Sec. 48. The department, upon the recommendation of the Board of Pharmacy, shall adopt and promulgate rules and regulations to carry out the Immunosuppressant Drug Repository Program Act. Such rules and regulations shall include, but not be limited to:

(1) Eligibility criteria and other standards and procedures for participants that accept and distribute or dispense donated immunosuppressant drugs;

(2) Necessary forms for administration of the program, including, but not limited to, forms for use by persons or entities that donate, accept, distribute, or dispense immunosuppressant drugs under the program. The forms shall include the name of the person to whom the drug was originally prescribed; and

(3) (a) Categories of immunosuppressant drugs that may be donated or returned under the program and (b) categories of immunosuppressant drugs that cannot be donated or returned under the program and the reason that such drugs cannot be donated or returned.

Sec. 49. (1) Any person or entity, including an immunosuppressant drug manufacturer, which exercises reasonable care in donating, accepting, distributing, or dispensing immunosuppressant drugs under the Immunosuppressant Drug Repository Program Act or rules and regulations adopted and promulgated under the act shall be immune from civil or criminal liability or professional disciplinary action of any kind for any injury, death, or loss to person or property relating to such activities.

(2) Notwithstanding subsection (1) of this section, the donation of an immunosuppressant drug by a drug manufacturer does not absolve the manufacturer of any criminal or civil liability that would have existed but for the donation, nor shall such donation increase the liability of such drug manufacturer that would have existed but for the donation.

Sec. 50. Section 20-162, Revised Statutes Cumulative Supplement, 2004, is amended to read:

20-162 For purposes of sections 20-161 to 20-166, unless the context otherwise requires:

(1) Complaint shall mean any oral or written allegation by a person with a developmental disability or a mentally ill individual, the parent or guardian of such persons, a state agency, or any other responsible named individual or entity to the effect that the person with developmental disabilities or the mentally ill individual is being subjected to injury or deprivation with regard to his or her health, safety, welfare, rights, or level of care;

(2) Developmental disability shall mean a severe chronic mental or physical disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6000 et seq., as amended;

(3) Facility for mentally ill individuals shall mean any place within Nebraska where a mentally ill individual is an inpatient or a resident and that is organized to provide treatment, shelter, food, care, or supervision including, but not limited to, those facilities described in the Health Care Facility Licensure Act and sections 71-1901 to ~~71-1917~~ 71-1916, 83-107.01, and 83-108;

(4) Facility for persons with developmental disabilities shall mean a facility or a specified portion of a facility designed primarily for the delivery of one or more services to persons with one or more developmental disabilities including, but not limited to, those facilities described in the Health Care Facility Licensure Act and sections 71-1901 to ~~71-1917~~ 71-1916, 83-107.01, and 83-108 whenever a person with a developmental disability is residing in such facility;

(5) Mentally ill individual shall mean an individual who has a significant mental illness or emotional impairment as determined by a mental health professional qualified under the laws, rules, and regulations of this state and who is an inpatient or resident in a facility for mentally ill individuals;

(6) Protection and advocacy system shall mean the entity designated pursuant to the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6000 et seq., as amended;

(7) Records shall mean all information and data obtained, collected, or maintained by a facility for persons with developmental disabilities or a facility for mentally ill individuals in the course of providing services to such persons which are reasonably related to the complaint to be investigated; and

(8) Services for persons with developmental disabilities shall mean services as defined in the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6000 et seq., as amended.

Sec. 51. Section 28-356, Revised Statutes Cumulative Supplement, 2004, is amended to read:

28-356 Department shall mean the Department of Health and Human Services Finance and Support.

Sec. 52. Section 28-372, Revised Statutes Cumulative Supplement, 2004, is amended to read:

28-372 (1) When any physician, psychologist, physician assistant, nurse, nursing assistant, other medical, developmental disability, or mental health professional, law enforcement personnel, caregiver or employee of a caregiver, operator or employee of a sheltered workshop, owner, operator, or employee of any facility licensed by the Department of Health and Human Services Regulation and Licensure, or human services professional or paraprofessional not including a member of the clergy has reasonable cause to believe that a vulnerable adult has been subjected to abuse or observes such adult being subjected to conditions or circumstances which reasonably would result in abuse, he or she shall report the incident or cause a report to be made to the appropriate law enforcement agency or to the ~~department~~ Department of Health and Human Services Finance and Support. Any other person may report abuse if such person has reasonable cause to believe that a vulnerable adult has been subjected to abuse or observes such adult being subjected to conditions or circumstances which reasonably would result in abuse.

(2) Such report may be made by telephone, with the caller giving his or her name and address, and, if requested by the department, shall be followed by a written report within forty-eight hours. To the extent available the report shall contain: (a) The name, address, and age of the vulnerable adult; (b) the address of the caregiver or caregivers of the vulnerable adult; (c) the nature and extent of the alleged abuse or the conditions and circumstances which would reasonably be expected to result in such abuse; (d) any evidence of previous abuse including the nature and extent of the abuse; and (e) any other information which in the opinion of the person making the report may be helpful in establishing the cause of the alleged abuse and the identity of the perpetrator or perpetrators.

(3) Any law enforcement agency receiving a report of abuse shall notify the department no later than the next working day by telephone or mail.

(4) A report of abuse made to the department which was not previously made to or by a law enforcement agency shall be communicated to the appropriate law enforcement agency by the department no later than the next working day by telephone or mail.

(5) The department shall establish a statewide toll-free number to be used by any person any hour of the day or night and any day of the week to make reports of abuse.

Sec. 53. Section 28-380, Revised Statutes Cumulative Supplement, 2004, is amended to read:

28-380 At any time subsequent to the completion of the department's investigation, if a vulnerable adult, the guardian of a vulnerable adult, or a person who allegedly abused a vulnerable adult and who is mentioned in a report believes the information in the report is inaccurate or being maintained in a manner inconsistent with the Adult Protective Services Act, such person may request the department to amend or expunge identifying information from the report or remove the record of such report from the registry. If the department refuses to do so or does not act within thirty days, the vulnerable adult or person who allegedly abused a vulnerable adult shall have the right to a hearing to determine whether the record of the report should be amended, expunged, or removed on the grounds that it is inaccurate or that it is being maintained in a manner inconsistent with such act. Such hearing shall be held within a reasonable time after a request is made and at a reasonable place and hour. At the hearing the burden of proving the accuracy and consistency of the record shall be on the department. The hearing shall be conducted by the Director of ~~Health and Human Services~~ Finance and Support or his or her designated representative, who is hereby authorized and empowered to order the amendment, expunction, or removal of the record to make such record accurate or consistent with the requirements of the Adult Protective Services Act. The decision shall be made in writing within thirty days of the close of the hearing and shall state the reasons upon which it is based. Decisions of the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 54. Section 43-522, Reissue Revised Statutes of Nebraska, is amended to read:

43-522 The ~~Department of Health and Human Services through its director~~ Director of Finance and Support shall expend state assistance funds allocated for medically handicapped children to supplement other state, county, and municipal, benevolent, fraternal, and charitable expenditures,

to extend and improve, especially in rural areas and in areas suffering from severe economic distress, services for locating physically and medically handicapped children and for providing medical, surgical, correction, and other services and care, and facilities for diagnosis, hospitalization, and aftercare, for children who are physically or medically handicapped or who are suffering from conditions which lead to medical handicaps. Expenditures and services shall be uniformly distributed so far as possible or practicable under conditions and circumstances which may be found to exist.

Sec. 55. Section 43-524, Reissue Revised Statutes of Nebraska, is amended to read:

43-524 The Director of ~~Health and Human Services~~ Finance and Support shall cooperate with medical, health, nursing, and welfare groups and organizations and with any agency in the state charged with providing for local rehabilitation of physically handicapped children.

Sec. 56. Section 43-2505, Reissue Revised Statutes of Nebraska, is amended to read:

43-2505 For purposes of the Early Intervention Act:

(1) Collaborating agencies means the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, and the State Department of Education;

(2) Developmental delay has the definition found in section 79-1118.01;

(3) Early intervention services may include services which:

(a) Are designed to meet the developmental needs of each eligible infant or toddler with disabilities and the needs of the family related to enhancing the development of their infant or toddler;

(b) Are selected in collaboration with the parent or guardian;

(c) Are provided in accordance with an individualized family service plan;

(d) Meet all applicable federal and state standards; and

(e) Are provided, to the maximum extent appropriate, in natural environments including the home and community settings in which infants and toddlers without disabilities participate;

(4) Eligible infant or toddler with disabilities means a child who needs early intervention services and is two years of age or younger, except that toddlers who reach age three during the school year shall remain eligible throughout that school year. The need for early intervention services is established when the infant or toddler experiences developmental delays or any of the other disabilities described in the Special Education Act;

(5) Federal early intervention program means the federal early intervention program for infants and toddlers with disabilities, 20 U.S.C. 1471 to 1485;

(6) Individualized family service plan means the process, periodically documented in writing, of determining appropriate early intervention services for an eligible infant or toddler with disabilities and his or her family;

(7) Interagency planning team means an organized group of interdisciplinary, interagency representatives, community leaders, and family members in each local community or region;

(8) Lead agency or agencies means the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, the and State Department of Education, and any other agencies designated by the Governor for general administration, supervision, and monitoring of programs and activities receiving federal funds under the federal early intervention program and state funds appropriated for early intervention services under the Early Intervention Act; and

(9) Services coordination means a flexible process of interaction facilitated by a services coordinator to assist the family of an eligible infant or toddler with disabilities within a community to identify and meet their needs pursuant to the act. Services coordination under the act shall not duplicate any case management services which an eligible infant or toddler with disabilities and his or her family are already receiving or eligible to receive from other sources.

Sec. 57. Section 43-2507, Reissue Revised Statutes of Nebraska, is amended to read:

43-2507 (1) Planning for early intervention services shall be the responsibility of each collaborating agency. The planning shall address a statewide system of comprehensive, coordinated, family-centered, community-based, and culturally competent early intervention services to all eligible infants or toddlers with disabilities and their families in Nebraska. The statewide system shall include the following minimum components:

(a) A public awareness program, including a central directory;

(b) A comprehensive early identification system, including a system for identifying children and making referrals for infants or toddlers who may be eligible for early intervention services;

(c) Common intake, referral, and assessment processes, procedures, and forms to determine eligibility of infants and toddlers and their families referred for early intervention services;

(d) An individualized family service plan, including services coordination, for each eligible infant or toddler with disabilities and his or her family;

(e) A comprehensive system of personnel development;

(f) A uniform computer data base and reporting system which crosses agency lines; and

(g) Services coordination to access the following early intervention services: Audiology; family training, counseling, and home visits; health services; medical services only for diagnostic or evaluation purposes; nursing services; nutrition services; occupational therapy; physical therapy; psychological services; social work services; special instruction; speech-language pathology; transportation and related costs that are necessary to enable an eligible infant or toddler with disabilities and his or her family to receive early intervention services; assistive technology devices and assistive technology services; vision services; and hearing services.

(2) Collaborating agencies shall review standards to ensure that personnel are appropriately and adequately prepared and trained to carry out the Early Intervention Act.

(3) Collaborating agencies shall be responsible for designing, supporting, and implementing a statewide training and technical assistance plan which shall address preservice, inservice, and leadership development for service providers and parents of eligible infants and toddlers with disabilities.

(4) Policies and procedures shall be jointly examined and analyzed by the collaborating agencies to satisfy data collection requirements under the federal early intervention program and to assure the confidentiality of the data contained in the statewide system. Notwithstanding any other provision of state law, the collaborating agencies shall be permitted to share information and data necessary to carry out the provisions of the federal early intervention program, including the personal identification or other specific information concerning individual infants, toddlers, or their families, except that the vital and medical records and health information concerning individuals provided to the Department of Health and Human Services or the Department of Health and Human Services Finance and Support may be released only under the laws authorizing the provision of such records and information. Nothing in this section shall prohibit the use of such data to provide for the preparation of reports, fiscal information, or other documents required by the Early Intervention Act, but no information in such reports, fiscal information, or other documents shall be used in a manner which would allow for the personal identification of an individual infant, toddler, or family.

Sec. 58. Section 43-2508, Reissue Revised Statutes of Nebraska, is amended to read:

43-2508 (1) The Department of Health and Human Services Finance and Support shall be responsible for providing or contracting for services.

(2) Whenever possible, the medical assistance program prescribed in sections 68-1018 to 68-1025 shall be used for payment of services coordination.

(3) It is the intent of this section that the ~~Department of Health and Human Services Finance and Support~~ department shall apply for and implement a Title XIX medicaid waiver as a way to assist in the provision of services coordination to eligible infants or toddlers with disabilities and their families.

Sec. 59. Section 43-2509, Reissue Revised Statutes of Nebraska, is amended to read:

43-2509 The Department of Health and Human Services and the Department of Health and Human Services Finance and Support shall be responsible for incorporating components required under the federal early intervention program into the state plans developed for the Special Supplemental ~~Feed~~ Nutrition Program for Women, Infants, and Children, the Commodity Supplemental Food Program, the maternal and child health program, and the developmental disabilities program. The ~~department~~ departments shall provide technical assistance, planning, and coordination related to the incorporation of such components.

Sec. 60. Section 43-2510, Reissue Revised Statutes of Nebraska, is amended to read:

43-2510 The Department of Health and Human Services and the Department of Health and Human Services Finance and Support shall be responsible for incorporating components required under the federal early intervention program into the mental health and developmental disabilities planning responsibilities of the department departments. The department departments shall provide technical assistance, planning, and coordination related to the incorporation of such components.

Sec. 61. Section 43-2512, Reissue Revised Statutes of Nebraska, is amended to read:

43-2512 Each region established pursuant to section 79-1135 shall establish an interagency planning team, which planning team shall include representatives from school districts, social services, health and medical services, parents, and mental health, developmental disabilities, Head Start, and other relevant agencies or persons serving children from birth to age five and their families and parents or guardians. Each interagency planning team shall be responsible for assisting in the planning and implementation of the Early Intervention Act in each local community or region. The Department of Health and Human Services Finance and Support, in collaboration with each regional interagency planning team, shall provide or contract for services coordination.

Sec. 62. Section 43-2606, Reissue Revised Statutes of Nebraska, is amended to read:

43-2606 (1) The Department of Health and Human Services Regulation and Licensure shall adopt and promulgate rules and regulations for mandatory training requirements for providers of child care and school-age-care programs. Such requirements shall include preservice orientation and at least four hours of annual inservice training. All child care programs required to be licensed under section 71-1911 shall show completion of a preservice orientation approved or delivered by the department prior to receiving a provisional license.

(2) The department shall initiate a system of documenting the training levels of staff in specific child care settings to assist parents in selecting optimal care settings.

(3) The training requirements shall be designed to meet the health, safety, and developmental needs of children and shall be tailored to the needs of licensed providers of child care programs. The training requirements for providers of child care programs shall include, but not be limited to, information on sudden infant death syndrome, shaken baby syndrome, and child abuse.

(4) The department shall provide or arrange for training opportunities throughout the state and shall provide information regarding training opportunities to all providers of child care programs at the time of registration or licensure, when renewing a registration, or on a yearly basis following licensure.

(5) Each provider of child care and school-age-care programs receiving orientation or training shall provide his or her social security number to the department.

(6) Rules and regulations adopted and promulgated under this section by the Department of Health and Human Services shall be deemed adopted and promulgated by the Department of Health and Human Services Regulation and Licensure on and after August 28, 1999. The department shall review and provide recommendations to the Governor for updating rules and regulations adopted and promulgated under this section at least every five years.

Sec. 63. Section 43-3401, Reissue Revised Statutes of Nebraska, is amended to read:

43-3401 The Early Childhood Interagency Coordinating Council is created. The council shall advise and assist the collaborating agencies in carrying out the provisions of the Early Intervention Act, the Quality Child Care Act, sections 79-1101 to 79-1104, and other early childhood care and education initiatives under state supervision. Membership and activities of the council shall comply with all applicable provisions of federal law. Members of the council shall be appointed by the Governor and shall include, but not be limited to:

(1) Parents of children who require early intervention services, early childhood special education, and other early childhood care and education services; and

(2) Representatives of school districts, social services, health and medical services, family child care and center-based early childhood care and education programs, agencies providing training to staff of child care programs, resource and referral agencies, mental health services, developmental disabilities services, educational service units, Head Start, higher education, physicians, the Legislature, business persons, and the

collaborating agencies.

Terms of the members shall be for three years, and a member shall not serve more than two consecutive three-year terms. Members shall be reimbursed for their actual and necessary expenses, including child care expenses, with funds provided for such purposes through the Early Intervention Act, the Quality Child Care Act, and sections 79-1101 to 79-1104.

Members of the Nebraska Interagency Coordinating Council serving on July 13, 2000, shall constitute the Early Childhood Interagency Coordinating Council and shall serve for the remainder of their terms. The Governor shall make additional appointments as required by this section and to fill vacancies as needed. The Governor shall set the initial terms of additional appointees to result in staggered terms for members of the council. The Department of Health and Human Services Finance and Support, the Department of Health and Human Services Regulation and Licensure, and the State Department of Education shall provide and coordinate staff assistance to the council.

Sec. 64. Section 43-3402, Reissue Revised Statutes of Nebraska, is amended to read:

43-3402 With respect to the Early Intervention Act, the Quality Child Care Act, and sections 79-1101 to 79-1104, the Early Childhood Interagency Coordinating Council shall serve in an advisory capacity to state agencies responsible for early childhood care and education, including care for school-age children, in order to:

(1) Promote the policies set forth in the Early Intervention Act, the Quality Child Care Act, and sections 79-1101 to 79-1104;

(2) Facilitate collaboration with the federally administered Head Start program;

(3) Make recommendations to the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, the Department of Health and Human Services Regulation and Licensure, the State Department of Education, and other state agencies responsible for the regulation or provision of early childhood care and education programs on the needs, priorities, and policies relating to such programs throughout the state;

(4) Make recommendations to the lead agency or agencies which prepare and submit applications for federal funding;

(5) Review new or proposed revisions to rules and regulations governing the registration or licensing of early childhood care and education programs;

(6) Study and recommend additional resources for early childhood care and education programs; and

(7) Report biennially to the Governor and Legislature on the status of early intervention and early childhood care and education in the state. Such report shall include (a) the number of license applications received under section 71-1911, (b) the number of such licenses issued, (c) the number of such license applications denied, (d) the number of complaints investigated regarding such licensees, (e) the number of such licenses revoked, (f) the number and dollar amount of civil penalties levied pursuant to section 71-1920, and (g) information which may assist the Legislature in determining the extent of cooperation provided to the Department of Health and Human Services Regulation and Licensure by other state and local agencies pursuant to section 71-1914.

Sec. 65. Section 68-1021.01, Revised Statutes Supplement, 2005, is amended to read:

68-1021.01 All references to federal law adopted by reference in sections 68-1020, 68-1021, and 68-1037 to 68-1039 refer to the law as it existed on January April 1, 2005 2006.

Sec. 66. Section 68-1204, Reissue Revised Statutes of Nebraska, is amended to read:

68-1204 (1) For the purpose of providing or purchasing social services described in section 68-1202, the state hereby accepts and assents to all applicable provisions of the federal Social Security Act, as amended such act existed on the operative date of this section. The Director of Health and Human Services and the Director of Finance and Support may each adopt and promulgate rules and regulations, enter into agreements, and adopt fee schedules with regard to social services described in section 68-1202.

(2) The Department of Health and Human Services shall adopt and promulgate rules and regulations to administer funds under Title XX of the federal Social Security Act, as amended such title existed on the operative date of this section, designated for specialized developmental disability services.

Sec. 67. Section 68-1205, Reissue Revised Statutes of Nebraska, is amended to read:

68-1205 The matching funds required to obtain the federal share of the services described in section 68-1202 may come from either state, county, or donated sources in amounts and other provisions to be determined by the Director of Health and Human Services or the Director of Finance and Support.

Sec. 68. Section 68-1206, Reissue Revised Statutes of Nebraska, is amended to read:

68-1206 (1) The Director of Health and Human Services and the Director of Finance and Support shall administer the program of social services in this state. The Department of Health and Human Services and the Department of Health and Human Services Finance and Support may contract with other social agencies for the purchase of social services at rates not to exceed those prevailing in the state or the cost at which the ~~department~~ departments could provide those services. The statutory maximum payments for the separate program of aid to dependent children shall apply only to public assistance grants and shall not apply to payments for social services.

(2) In determining the rate or rates to be paid by the department Department of Health and Human Services for child care as defined in section 43-2605, the ~~director~~ Director of Health and Human Services shall adopt a fixed-rate schedule for the state or a fixed-rate schedule for an area of the state applicable to each child care program category of provider as defined in section 71-1910 which may claim reimbursement for services provided by the federal Child Care Subsidy program, except that the department shall not pay a rate higher than that charged by an individual provider to that provider's private clients. The schedule may provide separate rates for care for infants, for children with special needs, including disabilities or technological dependence, or for other individual categories of children. The schedule shall be effective on October 1 of every year and shall be revised annually by the ~~director~~ annually Director of Health and Human Services.

Sec. 69. Section 68-1402, Reissue Revised Statutes of Nebraska, is amended to read:

68-1402 The Director of Health and Human Services Finance and Support shall establish and administer a program for the medical care of persons of all ages with genetically handicapping conditions, including cystic fibrosis, hemophilia, and sickle cell disease, through physicians and health care providers that are qualified pursuant to the regulations of the Department of Health and Human Services Finance and Support to provide such medical services. The director shall adopt such rules and regulations pursuant to the Administrative Procedure Act, as are necessary for the implementation of the provisions of the Genetically Handicapped Persons Act. The director shall establish priorities for the use of funds and provision of services under the Genetically Handicapped Persons Act.

Sec. 70. Section 68-1403, Reissue Revised Statutes of Nebraska, is amended to read:

68-1403 The program established under the Genetically Handicapped Persons Act, which shall be under the supervision of the Department of Health and Human Services Finance and Support, shall include any or all of the following:

- (1) Initial intake and diagnostic evaluation;
- (2) The cost of blood transfusion and use of blood derivatives, or both;
- (3) Rehabilitation services, including reconstructive surgery;
- (4) Expert diagnosis;
- (5) Medical treatment;
- (6) Surgical treatment;
- (7) Hospital care;
- (8) Physical therapy;
- (9) Occupational therapy;
- (10) Materials and prescription drugs;
- (11) Appliances and their upkeep, maintenance, and care;
- (12) Maintenance, transportation, or care incidental to any other form of services; and
- (13) Appropriate and sufficient staff to carry out the provisions of the Genetically Handicapped Persons Act.

Sec. 71. Section 68-1405, Reissue Revised Statutes of Nebraska, is amended to read:

68-1405 The Department of Health and Human Services Finance and Support shall establish uniform standards of financial eligibility for the treatment services under the program established under the Genetically Handicapped Persons Act, including a uniform formula for the payment of services by physicians and health care providers rendered under such program and such formula for payment shall provide for reimbursement at rates similar to those set by other federal and state programs, and private entitlements.

The ~~Department of Health and Human Services~~ standards of the department for financial eligibility shall be the same as those established for Medically Handicapped Children's Services, as administered by the ~~Department of Health and Human Services~~ department. All county or district health departments shall use the uniform standards for financial eligibility and uniform formula for payment established by the department. All payments shall be used in support of the program for services established under the act.

The department shall establish payment schedules for services, ~~not later than June 30, 1980.~~

Sec. 72. Section 68-1503, Reissue Revised Statutes of Nebraska, is amended to read:

68-1503 ~~As used in~~ For purposes of the Disabled Persons and Family Support Act; ~~unless the context otherwise requires;~~

(1) ~~Department shall mean~~ means the Department of Health and Human Services Finance and Support;

(2) ~~Disabled family member or disabled person shall mean~~ means a person who has a medically determinable severe, chronic disability which:

(a) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(b) ~~is~~ Is likely to continue indefinitely;

(c) ~~results~~ Results in substantial functional limitations in two or more of the following areas of major life activity: (i) Self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, (vii) work skills or work tolerance, and (viii) economic sufficiency; and

(d) ~~reflects~~ Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, vocational rehabilitation, or other services which are of lifelong or extended duration and are individually planned and coordinated; and

(3) ~~Other support programs shall mean~~ means all forms of local, state, or federal assistance, grants-in-aid, educational programs, or support provided by public or private funds for disabled persons or their families.

Sec. 73. Section 68-1514, Reissue Revised Statutes of Nebraska, is amended to read:

68-1514 The Director of ~~Health and Human Services~~ Finance and Support shall provide an opportunity for a fair hearing before the department to any family or disabled person who is denied support pursuant to the Disabled Persons and Family Support Act.

Sec. 74. Section 68-1521, Reissue Revised Statutes of Nebraska, is amended to read:

68-1521 For purposes of sections 68-1520 to 68-1528:

(1) Caregiver means an individual providing ongoing care for an individual unable to care for himself or herself;

(2) Community lifespan respite services program means a noncategorical respite services program that:

(a) Is operated by a community-based private nonprofit or for-profit agency or a public agency that provides respite services;

(b) Receives funding through the Nebraska Lifespan Respite Services Program established under section 68-1522;

(c) Serves an area in one or more of the six regional services areas of the department;

(d) Acts as a single local source for respite services information and referral; and

(e) Facilitates access to local respite services;

(3) ~~Department~~ means the Department of Health and Human Services Finance and Support;

(4) Noncategorical care means care without regard to the age, type of special needs, or other status of the individual receiving care;

(5) Provider means an individual or agency selected by a family or caregiver to provide respite services to an individual with special needs;

(6) Respite care means the provision of short-term relief to primary caregivers from the demands of ongoing care for an individual with special needs; and

(7) Respite services includes:

(a) Recruiting and screening of paid and unpaid respite care providers;

(b) Identifying local training resources and organizing training opportunities for respite care providers;

(c) Matching of families and caregivers with providers and other types of respite care;

(d) Linking families and caregivers with payment resources;

(e) Identifying, coordinating, and developing community resources

for respite services;

(f) Quality assurance and evaluation; and

(g) Assisting families and caregivers to identify respite care needs and resources.

Sec. 75. Section 68-1522, Reissue Revised Statutes of Nebraska, is amended to read:

68-1522 The Director of Health and Human Services Finance and Support shall establish the Nebraska Lifespan Respite Services Program to develop and encourage statewide coordination of respite services and to work with community-based private nonprofit or for-profit agencies, public agencies, and interested citizen groups in the establishment of community lifespan respite services programs. The Nebraska Lifespan Respite Services Program shall:

(1) Provide policy and program development support, including, but not limited to, data collection and outcome measures;

(2) Identify and promote resolution of local and state-level policy concerns;

(3) Provide technical assistance to community lifespan respite services programs;

(4) Develop and distribute respite services information;

(5) Promote the exchange of information and coordination among state and local governments, community lifespan respite services programs, agencies serving individuals unable to care for themselves, families, and respite care advocates to encourage efficient provision of respite services and reduce duplication of effort;

(6) Ensure statewide access to community lifespan respite services programs; and

(7) Monitor and evaluate implementation of community lifespan respite services programs.

Sec. 76. Section 68-1523, Reissue Revised Statutes of Nebraska, is amended to read:

68-1523 (1) The department, through the Nebraska Lifespan Respite Services Program, shall coordinate the establishment of community lifespan respite services programs. The program shall accept proposals submitted in the form and manner required by the program from community-based private nonprofit or for-profit agencies or public agencies that provide respite services to operate community lifespan respite services programs. According to criteria established by the department, the Nebraska Lifespan Respite Services Program shall designate and fund agencies described in this section to operate community lifespan respite services programs.

(2) The Director of Health and Human Services Finance and Support shall create the position of program specialist for the Nebraska Lifespan Respite Services Program to administer the program.

Sec. 77. Section 68-1713, Reissue Revised Statutes of Nebraska, is amended to read:

68-1713 (1) The Department of Health and Human Services shall submit a waiver request or requests to the United States Department of Health and Human Services and the United States Department of Agriculture as necessary for federal authorization to implement the provisions of the Welfare Reform Act. The Department of Health and Human Services may include the provisions of sections 68-1718 to 68-1726 in its waiver requests and shall designate counties for implementation on or after July 1, 1995, of such sections for recipient families in the aid to dependent children program. It is the intent of the Legislature that such designated counties include at least one county with a population of not more than thirty-five thousand inhabitants and one county with a population of at least one hundred fifty thousand inhabitants but not more than three hundred thousand inhabitants.

The Department of Health and Human Services shall implement the following policies:

(a) Permit Work Experience in Private for Profit Enterprises;

(b) Permit Job Search; ~~to Extend Beyond Eight Weeks Each Year;~~

(c) Permit Employment to be Considered a JOBS Program Component;

(d) Make Sanctions More Stringent to Emphasize Participant Obligations;

(e) Alternative Hearing Process;

(f) Permit Adults in Two-Parent Households to Participate in JOBS Activities Based on Their Self-Sufficiency Needs;

(g) Eliminate Exemptions for Individuals with Children Between the Ages of 12 Weeks and Age Six;

(h) Providing Poor Working Families with Transitional Child Care to Ease the Transition from Welfare to Self-Sufficiency;

(i) Provide Transitional Health Care for 12 Months After Termination

of ADC;

(j) Cap Family Benefits Based on the Number of Children in the Unit at the Time of Initial Eligibility;

(k) Require Adults to Ensure that Children in the Family Unit Attend School;

(l) Encourage Minor Parents to Live with Their Parents;

(m) Establish a Resource Limit of \$4,000 for a single individual and \$6,000 for two or more individuals for ADC;

(n) Exclude the Value of One Vehicle Per Family When Determining ADC Eligibility;

(o) Exclude the Cash Value of Life Insurance Policies in Calculating Resources for ADC;

(p) Permit the Self-Sufficiency Contract Assessment to Substitute for the Six-Month ADC Redetermination Process;

(q) Establish Food Stamps as a Continuous Benefit with Eligibility Reevaluated with Yearly Redeterminations;

(r) Establish a Budget the Gap Methodology Whereby Countable Earned Income is Subtracted from the Standard of the Need and Payment is Based on the Difference or Maximum Payment Level, Whichever is Less. That this Gap be Established at a Level that Encourages Work but at Least at a Level that Ensures that Those Currently Eligible for ADC do not Lose Eligibility Because of the Adoption of this Methodology;

(s) Adopt an Earned Income Disregard of Twenty Percent of Gross Earnings in the ADC Program and One Hundred Dollars in the Related Medical Assistance Program;

(t) Disregard Financial Assistance Received Intended for Books, Tuition, or Other Self-Sufficiency Related Use;

(u) Culture: Eliminate the 100-Hour Rule, The Quarter of Work Requirement, and The 30-Day Unemployed/Underemployed Period for ADC-UP Eligibility;

(v) Make ADC a Time-Limited Program;

(w) Eliminate Self-Initiated Training as a JOBS Option; and

(x) Other Waivers: Statewide Operation of the Demonstration Project.

At the end of the first year of implementation, the department shall identify any adjustments or adaptations that may be needed before the policies of the Welfare Reform Act are implemented in other areas of the state. Such review shall include an evaluation of the impact of such policies. The department shall implement the policies in additional counties as necessary to complete statewide implementation.

(2) The Department of Health and Human Services shall (a) apply for a waiver to allow for a sliding-fee schedule for the population served by the caretaker relative program or (b) pursue other public or private mechanisms, to provide for transitional health care benefits to individuals and families who do not qualify for cash assistance. It is the intent of the Legislature that transitional health care coverage be made available on a sliding-scale basis to individuals and families with incomes up to one hundred eighty-five percent of the federal poverty level if other health care coverage is not available.

Sec. 78. Section 68-1721, Reissue Revised Statutes of Nebraska, is amended to read:

68-1721 (1) Under the self-sufficiency contract developed under section 68-1719, the principal wage earner and other nonexempt members of the applicant family shall be required to participate in one or more of the following: Education, job skills training, work experience, job search, or employment.

(2) Education shall consist of the general education development program, high school, Adult Basic Education, English as a Second Language, postsecondary education, or other education programs approved in the contract.

(3) Job skills training shall include vocational training in technical job skills and equivalent knowledge. Activities shall consist of formalized, technical job skills training, apprenticeships, on-the-job training, or training in the operation of a microbusiness enterprise. The types of training, apprenticeships, or training positions may include, but need not be limited to, the ability to provide services such as home repairs, automobile repairs, respite care, foster care, personal care, and child care. Job skills training shall be prioritized and approved for occupations that facilitate economic self-sufficiency.

(4) The purpose of work experience shall be to improve the employability of applicants by providing work experience and training to assist them to move promptly into regular public or private employment. Work experience shall mean unpaid work in a public, private, for-profit, or nonprofit business or organization. Work experience placements shall take into

account the individual's prior training, skills, and experience. A placement shall not exceed ~~three~~ six months.

(5) Job search shall assist adult members of recipient families in finding their own jobs. The emphasis shall be placed on teaching the individual to take responsibility for his or her own job development and placement. ~~If an intensive job search does not result in employment within three months, the comprehensive assets assessment and the self-sufficiency contract shall be reassessed.~~

(6) Employment shall consist of work for pay. The employment may be full-time or part-time but shall be adequate to help the recipient family reach economic self-sufficiency.

Sec. 79. Section 71-101, Revised Statutes Supplement, 2005, is amended to read:

71-101 Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,338, 71-1,343 to 71-1,361, and 71-1301 to 71-1354, and 71-2801 to 71-2823 and the Physical Therapy Practice Act shall be known and may be cited as the Uniform Licensing Law.

For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Board or professional board means one of the boards appointed by the State Board of Health pursuant to sections 71-111 and 71-112;

(2) Licensed, when applied to any licensee in any of the professions named in section 71-102, means a person licensed under the Uniform Licensing Law;

(3) Profession or health profession means any of the several groups named in section 71-102;

(4) Department means the Department of Health and Human Services Regulation and Licensure;

(5) Whenever a particular gender is used, it is construed to include both the masculine and the feminine, and the singular number includes the plural when consistent with the intent of the Uniform Licensing Law;

(6) License, licensing, or licensure means permission to engage in a health profession which would otherwise be unlawful in this state in the absence of such permission and which is granted to individuals who meet prerequisite qualifications and allows them to perform prescribed health professional tasks and use a particular title;

(7) Certificate, certify, or certification, with respect to professions, means a voluntary process by which a statutory, regulatory entity grants recognition to an individual who has met certain prerequisite qualifications specified by such regulatory entity and who may assume or use the word certified in the title or designation to perform prescribed health professional tasks. When appropriate, certificate means a document issued by the department which designates particular credentials for an individual;

(8) Lapse means the termination of the right or privilege to represent oneself as a licensed, certified, or registered person and to practice the profession when a license, certificate, or registration is required to do so;

(9) Credentialing means the totality of the process associated with obtaining state approval to provide health care services or human services or changing aspects of a current approval. Credentialing grants permission to use a protected title that signifies that a person is qualified to provide the services of a certain profession. Credential includes a license, certificate, or registration; and

(10) Dependence means a compulsive or chronic need for or an active addiction to alcohol or any controlled substance or narcotic drug.

Sec. 80. Section 71-113, Revised Statutes Cumulative Supplement, 2004, is amended to read:

71-113 (1) Each professional board shall consist of four members, including one public member, except as otherwise provided in this section. A public member of a professional board (a) shall be a resident of this state who has attained the age of majority, (b) shall represent the interests and viewpoints of consumers, and (c) shall not be a present or former member of a credentialed profession, an employee of a member of a credentialed profession, or an immediate family or household member of any person presently regulated by such board.

(2) (a) In audiology and speech-language pathology the board shall consist of five members, including at least one public member, (b) in dentistry the board shall consist of ten members, including at least two public members, (c) in medicine and surgery the board shall consist of eight members, including at least two public members, (d) in pharmacy the board shall consist of five members, including at least one public member, (e) in psychology the board shall consist of seven members, including at least two

public members, (f) in medical nutrition therapy the board shall consist of five members, including at least one public member, (g) in mental health practice the board shall consist of not more than ten members, including at least two public members, (h) in alcohol and drug counseling the board shall consist of nine members, including two public members, and (i) in veterinary medicine and surgery the board shall consist of five members, including at least one public member, and (j) boards with eleven or more members shall have at least three public members.

(3) Membership on the Board of Audiology and Speech-Language Pathology shall consist of two members who are audiologists, two members who are speech-language pathologists, and at least one public member.

(4) Membership on the Board of Athletic Training shall consist of three athletic trainers and at least one public member.

(5) Membership on the Board of Respiratory Care Practice shall consist of two respiratory care practitioners, one physician, and at least one public member.

(6) Two of the six professional members of the Board of Medicine and Surgery shall be officials or members of the instructional staff of an accredited medical school in this state.

(7) Two of the eight professional members of the Board of Dentistry shall be dentists who are officials or members of the instructional staff of an accredited school or college of dentistry in this state, and two of the members of the board shall be dental hygienists licensed under the Uniform Licensing Law.

(8) Membership on the Board of Medical Nutrition Therapy shall consist of two medical nutrition therapists, one physician, and at least one public member.

(9) Membership on the Board of Mental Health Practice shall consist of not more than two certified master social workers, not more than two certified professional counselors, not more than two certified marriage and family therapists, and at least two public members. At least one professional member of the board shall be a member of a racial or ethnic minority. When ten or more persons hold licenses as mental health practitioners without holding an associated certificate, not more than two such licensed mental health practitioners shall be added to the board.

(10) Membership on the Board of Alcohol and Drug Counseling shall consist of six alcohol and drug counselors three of whom may be licensed as psychologists or mental health practitioners and three of whom are not licensed as psychologists or mental health practitioners, one person who is a psychiatrist, psychologist, or mental health practitioner, and two public members.

(11) Membership on the Board of Veterinary Medicine and Surgery shall consist of three veterinarians, one veterinary technician, and one public member.

Sec. 81. Section 71-162, Revised Statutes Cumulative Supplement, 2004, is amended to read:

71-162 (1) It is the intent of the Legislature that the revenue to cover the cost of the credentialing system administered by the department is to be derived from General Funds, cash funds, federal funds, gifts, grants, or fees from individuals or entities seeking credentials. The credentialing system includes the totality of the credentialing infrastructure and the process of issuance and renewal of credentials, examinations, inspections, investigations, continuing competency, compliance assurance, and the credentialing review process for the following individuals and entities that provide health services and health-related services:

(a) Individuals in the practice of acupuncture; advanced practice nursing; alcohol and drug counseling; asbestos abatement, inspection, project design, and training; athletic training; audiology; speech-language pathology; chiropractic; dentistry; dental hygiene; environmental health; hearing aid instrument dispensing and fitting; lead-based paint abatement, inspection, project design, and training; medical nutrition therapy; medical radiography; medication aide services; medicine and surgery; mental health practice; nursing; nursing assistant or paid dining assistant services; nursing home administration; occupational therapy; optometry; osteopathic medicine; pharmacy; physical therapy; podiatry; psychology; radon detection, measurement, and mitigation; respiratory care; social work; swimming pool operation; veterinary medicine and surgery; water system operation; constructing or decommissioning water wells and installing water well pumps and pumping equipment; and ~~wholesale drug distribution; and~~

(b) Individuals in the practice of and entities in the business of body art; cosmetology; electrology; emergency medical services; esthetics; funeral directing and embalming; massage therapy; and nail technology.

(2) The department shall determine the cost of the credentialing system for such individuals and entities by calculating the total of the base costs, the variable costs, and any adjustments as provided in sections 71-162.01 to 71-162.03.

(3) When fees are to be established pursuant to section 71-162.04 for individuals or entities other than individuals in the practice of constructing or decommissioning water wells and installing water well pumps and pumping equipment, the department, upon recommendation of the appropriate board if applicable, shall base the fees on the cost of the credentialing system and shall include usual and customary cost increases, a reasonable reserve, and the cost of any new or additional credentialing activities. For individuals in the practice of constructing or decommissioning water wells and installing water well pumps and pumping equipment, the Water Well Standards and Contractors' Licensing Board shall establish the fees as otherwise provided in this subsection. All such fees shall be collected as provided in section 71-163.

Sec. 82. Section 71-193.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.01 There is hereby established a ~~Division of Dental Health~~ the Office of Oral Health and Dentistry in the Department of Health and Human Services Regulation and Licensure. The head of such ~~division office~~ shall be known as the ~~chief of the Division of Dental Health~~ Dental Health Director and shall be appointed by the ~~Department of Health and Human Services Regulation and Licensure~~ department. The ~~chief of such division~~ Dental Health Director shall give full time to his or her duties, ~~as such chief.~~

Sec. 83. Section 71-193.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.02 The ~~chief of the Division of Dental Health~~ Dental Health Director shall be a graduate of an approved college of dentistry and shall be licensed by the State of Nebraska to practice dentistry in Nebraska or duly licensed to practice dentistry in some other state of the United States of America.

Sec. 84. Section 71-193.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.03 The duties of ~~such Division of Dental Health~~ the Office of Oral Health and Dentistry shall be the promotion and development of activities which will result in the practice and improvement of the dental health of the people of the state under rules and regulations adopted and promulgated by the ~~Department of Health and Human Services Regulation and Licensure~~ department.

Sec. 85. Section 71-1,104.01, Revised Statutes Supplement, 2005, is amended to read:

71-1,104.01 (1) Except as provided in section 71-519 and except for newborn screening tests ordered by physicians to comply with the law of the state in which the infant was born, a physician or an individual to whom the physician has delegated authority to perform a selected act, task, or function shall not order a predictive genetic test without first obtaining the written informed consent of the patient to be tested. Written informed consent consists of a signed writing executed by the patient or the representative of a patient lacking decisional capacity that confirms that the physician or individual acting under the delegated authority of the physician has explained, and the patient or his or her representative understands:

- (a) The nature and purpose of the predictive genetic test;
- (b) The effectiveness and limitations of the predictive genetic test;
- (c) The implications of taking the predictive genetic test, including the medical risks and benefits;
- (d) The future uses of the sample taken to conduct the predictive genetic test and the genetic information obtained from the predictive genetic test;
- (e) The meaning of the predictive genetic test results and the procedure for providing notice of the results to the patient; and
- (f) Who will have access to the sample taken to conduct the predictive genetic test and the genetic information obtained from the predictive genetic test, and the patient's right to confidential treatment of the sample and the genetic information.

(2) The Department of Health and Human Services Regulation and Licensure shall develop and distribute a model informed consent form for purposes of this section. The department shall include in the model form all of the information required under subsection (1) of this section. The department shall distribute the model form and all revisions to the form to physicians and other individuals subject to this section upon request and at no charge. The department shall review the model form at least annually for

five years after the first model form is distributed and shall revise the model form if necessary to make the form reflect the latest developments in medical genetics. The department may also develop and distribute a pamphlet that provides further explanation of the information included in the model form.

(3) If a patient or his or her representative signs a copy of the model informed consent form developed and distributed under subsection (2) of this section, the physician or individual acting under the delegated authority of the physician shall give the patient a copy of the signed informed consent form and shall include the original signed informed consent form in the patient's medical record.

(4) If a patient or his or her representative signs a copy of the model informed consent form developed and distributed under subsection (2) of this section, the patient is barred from subsequently bringing a civil action for damages against the physician, or an individual to whom the physician delegated authority to perform a selected act, task, or function, who ordered the predictive genetic test, based upon failure to obtain informed consent for the predictive genetic test.

(5) A physician's duty to inform a patient under this section does not require disclosure of information beyond what a physician reasonably well-qualified to order and interpret the predictive genetic test would know. A person acting under the delegated authority of a physician shall understand and be qualified to provide the information required by subsection (1) of this section.

(6) For purposes of this section:

(a) Genetic information means information about a gene, gene product, or inherited characteristic derived from a genetic test;

(b) Genetic test means the analysis of human DNA, RNA, chromosomes, epigenetic status, and those tissues, proteins, and metabolites used to detect heritable or somatic disease-related genotypes or karyotypes for clinical purposes. Tests of tissues, proteins, and metabolites are included only when generally accepted in the scientific and medical communities as being specifically determinative of a heritable or somatic disease-related genetic condition. Genetic test does not include a routine analysis, including a chemical analysis, of body fluids or tissues unless conducted specifically to determine a heritable or somatic disease-related genetic condition. Genetic test does not include a physical examination or imaging study. Genetic test does not include a procedure performed as a component of biomedical research that is conducted pursuant to federal common rule under 21 C.F.R. parts 50 and 56 and 45 C.F.R. part 46, as such regulations existed on January 1, 2003; and

(c) Predictive genetic test means a genetic test for an otherwise undetectable genotype or karyotype relating to the risk for developing a genetically related disease or disability, the results of which can be used to substitute a patient's prior risk based on population data or family history with a risk based on genotype or karyotype. Predictive genetic test does not include diagnostic testing conducted on a person exhibiting clinical signs or symptoms of a possible genetic condition. Predictive genetic testing does not include prenatal genetic diagnosis, unless the prenatal testing is conducted for an adult-onset condition not expected to cause clinical signs or symptoms before the age of majority.

Sec. 86. Section 71-612, Revised Statutes Cumulative Supplement, 2004, is amended to read:

71-612 (1) The Director of Finance and Support, as the State Registrar, through the Department of Health and Human Services Finance and Support shall preserve permanently and index all certificates received. The department shall supply to any applicant for any proper purpose, as defined by rules and regulations of the department, a certified copy of the record of any birth, death, marriage, annulment, or dissolution of marriage registered. The department shall supply a copy of a public vital record for viewing purposes at its office upon an application signed by the applicant and upon proof of the identity of the applicant. The application may include the name, address, and telephone number of the applicant, purpose for viewing each record, and other information as may be prescribed by the department by rules and regulations to protect the integrity of vital records and prevent their fraudulent use. Except as provided in subsections (2), (3), (5), (6), and (7) of this section, the department shall be entitled to charge and collect in advance a fee of ~~seven~~ eleven dollars to be paid by the applicant for each certified copy supplied to the applicant or for any search made at the applicant's request for access to or a certified copy of any record, whether or not the record is found on file with the department.

(2) The department shall, free of charge, search for and furnish a certified copy of any record on file with the department upon the request of

(a) the United States Department of Veterans Affairs or any lawful service organization empowered to represent veterans if the copy of the record is to be issued, for the welfare of any member or veteran of the armed forces of the United States or in the interests of any member of his or her family, in connection with a claim growing out of service in the armed forces of the nation or (b) the Military Department.

(3) The Department of Health and Human Services Finance and Support may, free of charge, search for and furnish a certified copy of any record on file with the department when in the opinion of the Director of Finance and Support it would be a hardship for the claimant of old age, survivors, or disability benefits under the federal Social Security Act to pay the fee provided in this section.

(4) A strict account shall be kept of all funds received by the department. Funds received pursuant to subsections (1), (5), (6), and (8) of this section shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Finance and Support Cash Fund. Money credited to the fund pursuant to this section shall be used for the purpose of administering the laws relating to vital statistics and may be used to create a petty cash fund administered by the department to facilitate the payment of refunds to individuals who apply for copies of records. The petty cash fund shall be subject to section 81-104.01, except that the amount in the petty cash fund shall not be less than twenty-five dollars nor more than one thousand dollars.

(5) The department shall, upon request, conduct a search of death certificates for stated individuals for the Nebraska Medical Association or any of its allied medical societies or any inhospital staff committee pursuant to sections 71-3401 to 71-3403. If such death certificate is found, the department shall provide a noncertified copy. The department shall charge a fee for each search or copy sufficient to cover its actual direct costs, except that the fee shall not exceed two dollars per individual search or copy requested.

(6) The department may permit use of data from vital records for statistical or research purposes under section 71-602 or disclose data from certificates or records to federal, state, county, or municipal agencies of government for use in administration of their official duties and charge and collect a fee that will recover the department's cost of production of the data. The department may provide access to public vital records for viewing purposes by electronic means, if available, under security provisions which shall assure the integrity and security of the records and data base and shall charge and collect a fee that shall recover the department's costs.

(7) In addition to the fees charged under subsection (1) of this section, the department shall charge and collect an additional fee of one dollar for any certified copy of the record of any birth or for any search made at the applicant's request for access to or a certified copy of any such record, whether or not the record is found on file with the department. Any county containing a city of the metropolitan class which has an established city-county or county health department pursuant to sections 71-1626 to 71-1636 which has an established system of registering births and deaths shall charge and collect in advance a fee of one dollar for any certified copy of the record of any birth or for any search made at the applicant's request for such record, whether or not the record is found on file with the county. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

(8) The department shall not charge other state agencies the fees authorized under subsections (1) and (7) of this section for automated review of any certificates. The department shall charge and collect a fee from other state agencies for such automated review that will recover the department's cost.

Sec. 87. Section 71-617.15, Revised Statutes Cumulative Supplement, 2004, is amended to read:

71-617.15 (1) ~~The Department of Health and Human Services Finance and Support~~ department shall charge and collect a the same fee of seven dollars as prescribed in subsection (1) of section 71-612 when an application for a delayed birth certificate is filed. All such fees shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Finance and Support Cash Fund. The department shall collect an additional fee of one dollar when a delayed birth certificate is issued. All amounts collected from such additional fee shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

(2) Upon request and payment of the fees required by section 71-612, a certified copy of a delayed birth certificate shall be furnished by the Director of Finance and Support. All fees for a certified copy shall be

handled as provided in section 71-612.

Sec. 88. Section 71-627, Revised Statutes Cumulative Supplement, 2004, is amended to read:

71-627 (1) The certificate of birth of adopted children shall be filed as other certificates of birth. ~~There shall be a fee of seven dollars charged~~ The department shall charge and collect the same fee as prescribed in subsection (1) of section 71-612 for each certificate filed. All such fees shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Finance and Support Cash Fund. The department shall charge and collect an additional fee of one dollar for each certificate issued. All amounts collected from such additional fee shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

(2) Upon request and payment of the fees required by section 71-612, a certified copy of an adoptive birth certificate shall be furnished by the Director of Finance and Support. All fees for a certified copy shall be handled as provided in section 71-612.

Sec. 89. Section 71-628, Revised Statutes Cumulative Supplement, 2004, is amended to read:

71-628 In case of the legitimation of any child born in Nebraska by the subsequent marriage of such child's parents as provided in section 43-1406, the Department of Health and Human Services Finance and Support department, upon the receipt of a certified copy of the marriage certificate of the parents and a statement of the parents acknowledging paternity, shall prepare a new certificate of birth in the new name of the child so legitimated, in substantially the same form as that used for other live births. The department ~~and~~ shall charge a filing fee of seven dollars and collect the same fee as prescribed in subsection (1) of section 71-612. All such fees shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Finance and Support Cash Fund. The department shall charge and collect an additional fee of one dollar for each new certificate of birth filed. All amounts collected from such additional fee shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

Sec. 90. Section 71-634, Revised Statutes Cumulative Supplement, 2004, is amended to read:

71-634 The Department of Health and Human Services Finance and Support department shall charge and collect a the same fee of seven dollars as prescribed in subsection (1) of section 71-612 for each proceeding under sections 71-630 and 71-635 to 71-644. All fees so collected shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Finance and Support Cash Fund. The department shall collect the fees required by section 71-612 for a certified copy of the amended record. All fees for a certified copy shall be handled as provided in section 71-612.

If a certificate is amended pursuant to sections 71-630 and 71-635 to 71-644 as the result of an error committed by the department in the issuance of such certificate, the department may waive any fee required under this section.

Sec. 91. Section 71-801, Revised Statutes Cumulative Supplement, 2004, is amended to read:

71-801 Sections 71-801 to ~~71-820~~ 71-818 shall be known and may be cited as the Nebraska Behavioral Health Services Act.

Sec. 92. Section 71-802, Revised Statutes Cumulative Supplement, 2004, is amended to read:

71-802 The purposes of the Nebraska Behavioral Health Services Act are to: (1) Reorganize statutes relating to the provision of publicly funded behavioral health services; (2) provide for the organization and administration of the public behavioral health system within the department; (3) rename mental health regions as behavioral health regions; (4) provide for the naming of regional behavioral health authorities and ongoing activities of regional governing boards; (5) reorganize and rename the State Mental Health Planning and Evaluation Council, the State Alcoholism and Drug Abuse Advisory Committee, and the Nebraska Advisory Commission on Compulsive Gambling; ~~and create the State Behavioral Health Council;~~ (6) change and add provisions relating to development of community-based behavioral health services and funding for behavioral health services; and (7) authorize the closure of regional centers.

Sec. 93. Section 71-814, Revised Statutes Cumulative Supplement, 2004, is amended to read:

71-814 (1) The State Advisory Committee on Mental Health Services is created. Members of the committee shall have a demonstrated interest and commitment and specialized knowledge, experience, or expertise relating to the provision of mental health services in the State of Nebraska. The committee

shall consist of twenty-three members appointed by the Governor as follows: (a) One regional governing board member, (b) one regional administrator, (c) twelve consumers of behavioral health services or their family members, (d) two providers of behavioral health services, (e) two representatives from the State Department of Education, including one representative from the Division of Vocational Rehabilitation of the State Department of Education, (f) three representatives from the Nebraska Health and Human Services System representing mental health, social services, and medicaid, (g) one representative from the Nebraska Commission on Law Enforcement and Criminal Justice, and (h) one representative from the Housing Office of the Community and Rural Development Division of the Department of Economic Development.

(2) The committee shall be responsible to the ~~State Behavioral Health Council~~ division and shall (a) serve as the state's mental health planning council as required by Public Law 102-321, (b) conduct regular meetings, (c) provide advice and assistance to ~~the council~~ and the division relating to the provision of mental health services in the State of Nebraska, including, but not limited to, the development, implementation, provision, and funding of organized peer support services, (d) promote the interests of consumers and their families, including, but not limited to, their inclusion and involvement in all aspects of services design, planning, implementation, provision, education, evaluation, and research, (e) provide reports as requested by ~~the council~~ or the division, and (f) engage in such other activities as directed or authorized by the ~~council~~ division.

Sec. 94. Section 71-815, Revised Statutes Supplement, 2005, is amended to read:

71-815 (1) The State Advisory Committee on Substance Abuse Services is created. Members of the committee shall have a demonstrated interest and commitment and specialized knowledge, experience, or expertise relating to the provision of substance abuse services in the State of Nebraska. The committee shall consist of twelve members appointed by the Governor and shall include at least three consumers of substance abuse services.

(2) The committee shall be responsible to the ~~State Behavioral Health Council~~ division and shall (a) conduct regular meetings, (b) provide advice and assistance to ~~the council~~ and the division relating to the provision of substance abuse services in the State of Nebraska, (c) promote the interests of consumers and their families, (d) provide reports as requested by ~~the council~~ or the division, and (e) engage in such other activities as directed or authorized by the ~~council~~ division.

Sec. 95. Section 71-816, Revised Statutes Supplement, 2005, is amended to read:

71-816 (1) The State Advisory Committee on Problem Gambling and Addiction Services is created. Members of the committee shall have a demonstrated interest and commitment and specialized knowledge, experience, or expertise relating to the provision of problem gambling and addiction services in the State of Nebraska. The committee shall consist of twelve members appointed by the Governor and shall include at least three consumers of problem gambling or addiction services.

(2) The committee shall be responsible to the ~~State Behavioral Health Council~~ division and shall (a) conduct regular meetings, (b) provide advice and assistance to ~~the council~~ and the division relating to the provision of problem gambling and addiction services in the State of Nebraska, (c) evaluate applications for funding from the Compulsive Gamblers Assistance Fund and make recommendations relating to disbursements from the fund, (d) promote the interests of consumers and their families, (e) provide reports as requested by ~~the council~~ or the division, and (f) engage in such other activities as directed or authorized by the ~~council~~ division.

Sec. 96. Section 71-1721, Revised Statutes Supplement, 2005, is amended to read:

71-1721 (1) Until July 1, 2007, an advanced practice registered nurse may provide health care services within specialty areas. An advanced practice registered nurse shall function by establishing collaborative, consultative, and referral networks as appropriate with other health care professionals. Patients who require care beyond the scope of practice of an advanced practice registered nurse shall be referred to an appropriate health care provider. Advanced practice registered nurse practice means health promotion, health supervision, illness prevention and diagnosis, treatment, and management of common health problems and chronic conditions, including:

(a) Assessing patients, ordering diagnostic tests and therapeutic treatments, synthesizing and analyzing data, and applying advanced nursing principles;

(b) Dispensing, incident to practice only, sample medications which are provided by the manufacturer and are provided at no charge to the patient;

and

(c) Prescribing therapeutic measures and medications relating to health conditions within the scope of practice. Any limitation on the prescribing authority of the advanced practice registered nurse for controlled substances listed in Schedule II of section 28-405 shall be recorded in the integrated practice agreement established pursuant to section 71-1716.03.

(2) On and after July 1, 2007, a nurse practitioner may provide health care services within specialty areas. A nurse practitioner shall function by establishing collaborative, consultative, and referral networks as appropriate with other health care professionals. Patients who require care beyond the scope of practice of a nurse practitioner shall be referred to an appropriate health care provider. Nurse practitioner practice means health promotion, health supervision, illness prevention and diagnosis, treatment, and management of common health problems and chronic conditions, including:

(1) (a) Assessing patients, ordering diagnostic tests and therapeutic treatments, synthesizing and analyzing data, and applying advanced nursing principles;

(2) (b) Dispensing, incident to practice only, sample medications which are provided by the manufacturer and are provided at no charge to the patient; and

(3) (c) Prescribing therapeutic measures and medications relating to health conditions within the scope of practice. Any limitation on the prescribing authority of the nurse practitioner for controlled substances listed in Schedule II of section 28-405 shall be recorded in the integrated practice agreement established pursuant to section 71-1716.03. ~~except controlled substances listed in Schedule II of section 28-405 not otherwise provided for in this section, related to health conditions within the scope of practice. A nurse practitioner may prescribe controlled substances listed in Schedule II of section 28-405 used for pain control for a maximum seventy-two-hour supply if any subsequent renewal of such prescription is by a licensed physician.~~

(3) On and after July 1, 2007, a nurse practitioner who has proof of a current certification from an approved certification program in a psychiatric or mental health specialty may manage the care of patients committed under the Nebraska Mental Health Commitment Act. Patients who require care beyond the scope of practice of a nurse practitioner who has proof of a current certification from an approved certification program in a psychiatric or mental health specialty shall be referred to an appropriate health care provider.

Sec. 97. Section 71-1910, Revised Statutes Cumulative Supplement, 2004, is amended to read:

71-1910 For purposes of the Child Care Licensing Act, unless the context otherwise requires:

(1) Department means the Department of Health and Human Services Regulation and Licensure;

(2) Director means the Director of Regulation and Licensure; and

(3) (a) Program means the provision of services in lieu of parental supervision for children under thirteen years of age for compensation, either directly or indirectly, on the average of less than twelve hours per day, but more than two hours per week, and includes any employer-sponsored child care, family child care home, child care center, school-age child care program, school-age services pursuant to section 79-1104, or preschool or nursery school.

(b) Program does not include casual care at irregular intervals, a recreation camp as defined in section 71-3101, classes or services provided by a religious organization other than child care or a preschool or nursery school, a preschool program conducted in a school approved pursuant to section 79-318, services provided only to school-age children during the summer and other extended breaks in the school year, or foster care as defined in section 71-1901.

Sec. 98. Section 71-1911, Revised Statutes Cumulative Supplement, 2004, is amended to read:

71-1911 (1) A person may operate child care for three or fewer children without having a license issued by the department. A person who is not required to be licensed may choose to apply for a license and, upon obtaining a license, shall be subject to the Child Care Licensing Act. A person who has had a license issued pursuant to ~~subsection (2) of~~ this section and has had such license suspended or revoked other than for nonpayment of fees shall not operate or offer to operate a program for three or fewer or provide care to any number of children until the person is licensed pursuant to this section.

(2) No person shall operate or offer to operate a program for four

or more children under his or her direct supervision, care, and control at any one time from families other than that of such person without having in full force and effect a written license issued by the department upon such terms as may be prescribed by the rules and regulations adopted and promulgated by the department. The license may be a provisional license or an operating license. A city, village, or county which has rules, regulations, or ordinances in effect on July 10, 1984, which apply to programs operating for two or three children from different families may continue to license persons providing such programs. If the license of a person is suspended or revoked other than for nonpayment of fees, such person shall not be licensed by any city, village, or county rules, regulations, or ordinances until the person is licensed pursuant to this section.

(3) A provisional license shall be issued to all applicants following the completion of preservice orientation training approved or delivered by the department for the first year of operation. At the end of one year of operation, the department shall either issue an operating license, extend the provisional license, or deny the operating license. The provisional license may be extended once for a period of no more than six months. The decision regarding extension of the provisional license is not appealable. The provisional license may be extended if:

(a) A licensee is unable to comply with all licensure requirements and standards, is making a good faith effort to comply, and is capable of compliance within the next six months;

(b) The effect of the current inability to comply with a rule or regulation does not present an unreasonable risk to the health, safety, or well-being of children or staff; and

(c) The licensee has a written plan of correction that has been approved by the department which is to be completed within the renewal period.

(4) The department may place a provisional or operating license on corrective action status. Corrective action status is voluntary and may be in effect for up to six months. The decision regarding placement on corrective action status is not a disciplinary action and is not appealable. If the written plan of correction is not approved by the department, the department may discipline the license. A probationary license may be issued for the licensee to operate under corrective action status if the department determines that:

(a) The licensee is unable to comply with all licensure requirements and standards or has had a history of noncompliance;

(b) The effect of noncompliance with any rule or regulation does not present an unreasonable risk to the health, safety, or well-being of children or staff; and

(c) The licensee has a written plan of correction that has been approved by the department.

(5) Operating licenses issued under the Child Care Licensing Act shall remain in full force and effect subject to annual inspections and fees. The department may amend a license upon change of ownership or location. Amending a license requires a site inspection by the department at the time of amendment, except that for amendment of a family child care home I license, an inspection shall occur within sixty days. When a program is to be permanently closed, the licensee shall return the license to the department within one week after the closing.

(6) The license, including any applicable status or amendment, shall be displayed by the licensee in a prominent place so that it is clearly visible to parents and others. License record information and inspection reports shall be made available by the licensee for public inspection upon request.

Sec. 99. Section 71-1911.02, Revised Statutes Cumulative Supplement, 2004, is amended to read:

71-1911.02 (1) An applicant for a license to operate a program required to be licensed under the Child Care Licensing Act shall file a written application with the department. The application shall be accompanied by the license fee pursuant to section 71-1911.01 and shall set forth the full name and address of the program to be licensed, the full name and address of the owner of such program, the names of all household members if the program is located in a residence, the names of all persons in control of the program, and additional information as required by the department, including affirmative evidence of the applicant's ability to comply with rules and regulations adopted and promulgated under the act. The application shall include the applicant's social security number if the applicant is an individual. The social security number shall not be public record and may only be used for administrative purposes.

(2) The application shall be signed by (a) the owner, if the

applicant is an individual, a ~~or~~ partnership, or the sole owner of a limited liability company or a corporation, (b) two of its members, if the applicant is a limited liability company, or (c) two of its officers, if the applicant is a corporation.

Sec. 100. Section 71-1914, Revised Statutes Cumulative Supplement, 2004, is amended to read:

71-1914 (1) The department shall be the state's coordinating agency for licensure and regulation of programs in this state in order to (a) provide efficient services pursuant to the Child Care Licensing Act, (b) avoid duplication of services, and (c) prevent an unnecessary number of inspections of any program. The department may request cooperation and assistance from local and state agencies and such agencies shall promptly respond. The extent of an agency's cooperation may be included in the report to the Legislature pursuant to section 71-1917 43-3402.

(2) A city, village, or county may adopt rules, regulations, or ordinances establishing physical well-being and safety standards for programs whether or not the persons providing such programs are subject to licensure under section 71-1911. Such rules, regulations, or ordinances shall be as stringent as or more stringent than the department's rules and regulations for licensees pursuant to the Child Care Licensing Act. The city, village, or county adopting such rules, regulations, or ordinances and the department shall coordinate the inspection and supervision of licensees to avoid duplication of inspections. A city, village, or county shall report any violation of such rules, regulations, or ordinances to the director. The city, village, or county may administer and enforce such rules, regulations, and ordinances. Enforcement of provisions of the Child Care Licensing Act or rules or regulations adopted and promulgated under the act shall be by the department pursuant to sections 71-1919 to 71-1923.

Sec. 101. Section 71-1916, Revised Statutes Cumulative Supplement, 2004, is amended to read:

71-1916 (1) The department shall adopt and promulgate such rules and regulations, consistent with the Child Care Licensing Act, as necessary for (a) the proper care and protection of children in programs regulated under the act, (b) the issuance and discipline of licenses, and (c) the proper administration of the act.

(2) The department shall adopt and promulgate rules and regulations establishing standards for the physical well-being, safety, and protection of children in programs licensed under the Child Care Licensing Act. Such standards shall insure that the program is providing proper care for and treatment of the children served and that such care and treatment is consistent with the children's physical well-being, safety, and protection. Such standards shall not require the use of any specific instructional materials or affect the contents of any course of instruction which may be offered by a program. The rules and regulations shall contain provisions which encourage the involvement of parents in child care for their children and insure the availability, accessibility, and high quality of services for children.

(3) The rules and regulations shall be adopted and promulgated pursuant to the Administrative Procedure Act, except that the department shall hold a public hearing in each geographic area of the state prior to the adoption, amendment, or repeal of any rule or regulation. The department shall review and provide recommendations to the Governor for updating such rules and regulations at least every five years.

(4) The rules and regulations applicable to programs required to be licensed under the Child Care Licensing Act do not apply to any program operated or contracted by a public school district and subject to the rules and regulations of the State Department of Education as provided in section 79-1104.

(5) Contested cases of the department under the Child Care Licensing Act shall be in accordance with the Administrative Procedure Act.

Sec. 102. Section 71-2225, Reissue Revised Statutes of Nebraska, is amended to read:

71-2225 For purposes of sections 71-2225 to 71-2230:

(1) CSF program shall mean the Commodity Supplemental Food Program administered by the United States Department of Agriculture or its successor;

(2) Food instrument shall mean a voucher, check, coupon, or other document used to obtain supplemental foods;

(3) Supplemental foods shall mean (a) foods containing nutrients determined to be beneficial for infants, children, and pregnant, breast-feeding, or postpartum women as prescribed by the United States Department of Agriculture for use in the WIC program and (b) foods donated by the United States Department of Agriculture for use in the CSF program; and

(4) WIC program shall mean the Special Supplemental Feed Nutrition Program for Women, Infants, and Children as administered by the United States Department of Agriculture or its successor.

Sec. 103. Section 71-3503, Revised Statutes Supplement, 2005, is amended to read:

71-3503 For purposes of the Radiation Control Act, unless the context otherwise requires:

(1) Radiation means ionizing radiation and nonionizing radiation as follows:

(a) Ionizing radiation means gamma rays, X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other atomic or nuclear particles or rays but does not include sound or radio waves or visible, infrared, or ultraviolet light; and

(b) Nonionizing radiation means (i) any electromagnetic radiation which can be generated during the operations of electronic products to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment, other than ionizing electromagnetic radiation, and (ii) any sonic, ultrasonic, or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment;

(2) Radioactive material means any material, whether solid, liquid, or gas, which emits ionizing radiation spontaneously. Radioactive material includes, but is not limited to, accelerator-produced material, byproduct material, naturally occurring material, source material, and special nuclear material;

(3) Radiation-generating equipment means any manufactured product or device, component part of such a product or device, or machine or system which during operation can generate or emit radiation except devices which emit radiation only from radioactive material;

(4) Sources of radiation means any radioactive material, any radiation-generating equipment, or any device or equipment emitting or capable of emitting radiation or radioactive material;

(5) Undesirable radiation means radiation in such quantity and under such circumstances as determined from time to time by rules and regulations adopted and promulgated by the department;

(6) Person means any individual, corporation, partnership, limited liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing;

(7) Registration means registration with the department pursuant to the Radiation Control Act;

(8) Department means the Department of Health and Human Services Regulation and Licensure;

(9) Coordinator means the Director of Regulation and Licensure;

(10) Electronic product means any manufactured product, device, assembly, or assemblies of such products or devices which, during operation in an electronic circuit, can generate or emit a physical field of radiation;

(11) License means:

(a) A general license issued pursuant to rules and regulations adopted and promulgated by the department without the filing of an application with the department or the issuance of licensing documents to particular persons to transfer, acquire, own, possess, or use quantities of or devices or equipment utilizing radioactive materials;

(b) A specific license, issued to a named person upon application filed with the department pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to the act, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of or devices or equipment utilizing radioactive materials;

(c) A license issued to a radon measurement specialist, radon measurement technician, radon mitigation specialist, radon mitigation technician, radon measurement business, or radon mitigation business; or

(d) A license issued to a medical radiographer or limited radiographer;

(12) Byproduct material means:

(a) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its

source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute byproduct material;

(13) Source material means:

(a) Uranium or thorium or any combination thereof in any physical or chemical form; or

(b) Ores which contain by weight one-twentieth of one percent or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material;

(14) Special nuclear material means:

(a) Plutonium, uranium 233, or uranium enriched in the isotope 233 or in the isotope 235 and any other material that the United States Nuclear Regulatory Commission pursuant to the provisions of section 51 of the federal Atomic Energy Act of 1954, as amended, determines to be special nuclear material but does not include source material; or

(b) Any material artificially enriched by any material listed in subdivision (14) (a) of this section but does not include source material;

(15) Users of sources of radiation means:

(a) Physicians using radioactive material or radiation-generating equipment for human use;

(b) Natural persons using radioactive material or radiation-generating equipment for education, research, or development purposes;

(c) Natural persons using radioactive material or radiation-generating equipment for manufacture or distribution purposes;

(d) Natural persons using radioactive material or radiation-generating equipment for industrial purposes; and

(e) Natural persons using radioactive material or radiation-generating equipment for any other similar purpose;

(16) Civil penalty means any monetary penalty levied on a licensee or registrant because of violations of statutes, rules, regulations, licenses, or registration certificates but does not include criminal penalties;

(17) Closure means all activities performed at a waste handling, processing, management, or disposal site, such as stabilization and contouring, to assure that the site is in a stable condition so that only minor custodial care, surveillance, and monitoring are necessary at the site following termination of licensed operation;

(18) Decommissioning means final operational activities at a facility to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material, and to carry out any other activities to prepare the site for postoperational care;

(19) Disposal means the permanent isolation of low-level radioactive waste pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to such act;

(20) Generate means to produce low-level radioactive waste when used in relation to low-level radioactive waste;

(21) High-level radioactive waste means:

(a) Irradiated reactor fuel;

(b) Liquid wastes resulting from the operation of the first cycle solvent extraction system or equivalent and the concentrated wastes from subsequent extraction cycles or the equivalent in a facility for reprocessing irradiated reactor fuel; and

(c) Solids into which such liquid wastes have been converted;

(22) Low-level radioactive waste means radioactive waste not defined as high-level radioactive waste, spent nuclear fuel, or byproduct material as defined in subdivision (12) (b) of this section;

(23) Management of low-level radioactive waste means the handling, processing, storage, reduction in volume, disposal, or isolation of such waste from the biosphere in any manner; ~~except the commercial disposal of low-level radioactive waste in a disposal facility, designated by the Central Interstate Low-Level Radioactive Waste Compact Commission;~~

(24) Source material mill tailings or mill tailings means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes, but not including underground ore bodies depleted by such solution extraction processes;

(25) Source material milling means any processing of ore, including underground solution extraction of unmined ore, primarily for the purpose of extracting or concentrating uranium or thorium therefrom and which results in

the production of source material and source material mill tailings;

(26) Spent nuclear fuel means irradiated nuclear fuel that has undergone at least one year of decay since being used as a source of energy in a power reactor. Spent nuclear fuel includes the special nuclear material, byproduct material, source material, and other radioactive material associated with fuel assemblies;

(27) Transuranic waste means radioactive waste material containing alpha-emitting radioactive elements, with radioactive half-lives greater than five years, having an atomic number greater than 92 in concentrations in excess of one hundred nanocuries per gram;

(28) Licensed practitioner means a person licensed to practice medicine, dentistry, podiatry, chiropractic, osteopathic medicine and surgery, or as an osteopathic physician;

(29) X-ray system means an assemblage of components for the controlled production of X-rays, including, but not limited to, an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system;

(30) Limited radiographer means a person licensed to practice medical radiography pursuant to subsection (2) of section 71-3515.01. Limited radiographer does not include a person certified under section 71-176.01;

(31) Medical radiographer means a person licensed to practice medical radiography pursuant to subsection (1) of section 71-3515.01;

(32) Medical radiography means the application of radiation to humans for diagnostic purposes, including, but not limited to, adjustment or manipulation of X-ray systems and accessories including image receptors, positioning of patients, processing of films, and any other action that materially affects the radiation dose to patients;

(33) Licensed facility operator means any person or entity who has obtained a license under the Low-Level Radioactive Waste Disposal Act to operate a facility, including any person or entity to whom an assignment of a license is approved by the Department of Environmental Quality; and

(34) Deliberate misconduct means an intentional act or omission by a person that (a) would intentionally cause a licensee, registrant, or applicant for a license or registration to be in violation of any rule, regulation, or order of or any term, condition, or limitation of any license or registration issued by the department under the Radiation Control Act or (b) constitutes an intentional violation of a requirement, procedure, instruction, contract, purchase order, or policy under the Radiation Control Act by a licensee, a registrant, an applicant for a license or registration, or a contractor or subcontractor of a licensee, registrant, or applicant for a license or registration.

Sec. 104. Section 71-3515.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-3515.01 (1) A person licensed by the department as a medical radiographer ~~by the department~~ may practice medical radiography on any part of the human anatomy for interpretation by and under the direction of a licensed practitioner, excluding interpretative fluoroscopic procedures. Such person shall:

(a) Prior to issuance of a license as a medical radiographer, (i) complete an educational program in radiography incorporating the course material as provided in the rules and regulations of the department pursuant to subsection (1) of section 71-3515.02 and (ii) complete an application which includes such person's social security number and successfully complete an examination approved by the department on the course material. Presentation of proof of registration in radiography with the American Registry of Radiologic Technologists is proof of meeting the requirements of this subdivision (a) of this subsection; and

(b) Prior to renewal of licensure as a medical radiographer, have an average of twelve units of continuing education per year as approved by the department or complete continuing competency activities as required by the department pursuant to section 71-3507.

Presentation of proof of current registration in radiography with the American Registry of Radiologic Technologists is proof of meeting the requirements of subdivisions (a) and (b) of this subsection.

(2) A person licensed by the department as a limited radiographer ~~by the department~~ may practice medical radiography on limited regions of the human anatomy, using only routine radiographic procedures, for the interpretation by and under the direction of a licensed practitioner, excluding computed tomography, the use of contrast media, and the use of fluoroscopic or mammographic equipment. Such person shall:

(a) Prior to issuance of a license as a limited radiographer, complete an application which includes the applicant's social security number and successfully complete an examination approved by the department, as described in subdivision (2)(a) of section 71-3515.02 and at least one of the anatomical regions listed in subdivision (2)(b) of such section or successfully complete an examination approved by the department, as described in subsection (3) of section 71-3515.02. The license issued shall be specific to the anatomical region or regions for which the applicant has passed an approved examination, except that an applicant may be licensed in the anatomical region of Abdomen upon successful passage of the examinations described in subdivisions (2)(a) and (2)(b)(iv) of section 71-3515.02 and upon a finding by the department that continued provision of service for a community would be in jeopardy; and

(b) Prior to renewal of licensure as a limited radiographer, have an average of twelve units of continuing education per year as approved by the department or complete continuing competency activities as required by the department pursuant to section 71-3507.

(3) The requirements of this section do not apply to a student while enrolled and participating in an educational program in medical radiography who, as a part of an educational program, applies X-rays to humans while under the supervision of the licensed practitioners or medical radiographers associated with the educational program. Students who have completed at least twelve months of the training course described in subsection (1) of section 71-3515.02 may apply for licensure as a temporary medical radiographer. Temporary medical radiographer licenses shall expire eighteen months after issuance and shall not be renewed. Persons licensed as temporary medical radiographers shall be permitted to perform the duties of a limited radiographer licensed in all anatomical regions of subdivision (2)(b) of such section and Abdomen.

Sec. 105. Section 71-3515.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-3515.02 (1) The educational program for medical radiographers shall consist of twenty-four months of instruction in radiography approved by the department which includes, but is not limited to, radiographic procedures, imaging equipment, image production and evaluation, film processing, radiation physics, radiation protection, radiation biology, radiographic pathology, and quality assurance activities. The department shall recognize equivalent courses of instruction successfully completed by individuals who are applying for licensure as medical radiographers by the department when determining if the requirements of section 71-3515.01 have been met.

(2) The examination for limited radiographers shall include, but not be limited to:

(a) Radiation protection, equipment maintenance and operation, image production and evaluation, and patient care and management; and

(b) The anatomy of, and positioning for, specific regions of the human anatomy. The anatomical regions shall include at least one of the following:

- (i) Chest;
- (ii) Extremities;
- (iii) Skull and sinus;
- (iv) Spine; or
- (v) Ankle and foot.

(3) The examination for limited radiographers in bone density shall include, but not be limited to, basic concepts of bone densitometry, equipment operation and quality control, radiation safety, and dual X-ray absorptiometry (DXA) scanning of the finger, heel, forearm, lumbar spine, and proximal femur.

(4) The department shall adopt and promulgate rules and regulations regarding the examinations required in subdivisions (1)(a)(ii) and (2)(a) of section 71-3515.01. Such rules and regulations shall provide for (a) the administration of examinations based upon national standards, such as the Examination in Radiography from the American Registry of Radiologic Technologists for medical radiographers, the Examination for the Limited Scope of Practice in Radiography or the Bone Densitometry Equipment Operator Examination from the American Registry of Radiologic Technologists for limited radiographers, or equivalent examinations that, as determined by the department, meet the standards for educational and psychological testing as recommended by the American Psychological Association, the American Educational Research Association, and the National Council on Measurement in Education, (b) procedures to be followed for examinations, (c) the method of grading and the passing grades for such examinations, (d) security protection for questions and answers, and (e) for medical radiographers, the contents of such examination based on the course requirements for medical

radiographers prescribed in subsection (1) of this section. Any costs incurred in determining the extent to which examinations meet the examining standards of this subsection shall be paid by the individual or organization proposing the use of such examination.

~~(4)~~ (5) Any person employed in medical radiography before and on June 2, 1995, who is not otherwise licensed may apply for a license as a provisional limited radiographer before January 1, 1996. A person licensed as a provisional limited radiographer may perform the duties of a limited radiographer licensed in all anatomical regions listed in subdivision (2)(b) of this section and the anatomical region of Abdomen. A provisional limited radiographer shall not radiograph children under the age of six months, except (a) upon a finding by the department that continued provision of service for a community would be in jeopardy if this provision is enforced, (b) for an employee of a hospital licensed and in good standing under the Health Care Facility Licensure Act and located in a rural area as defined in section 71-5653, or (c) in a bona fide emergency situation. No examination shall be required of individuals applying for a license as a provisional limited radiographer. All provisional limited radiographer licenses expire January 1, 2005. A license as a provisional limited radiographer is subject to discipline for violations of the Radiation Control Act and rules and regulations adopted pursuant to the act, including, but not limited to, revocation for nonpayment of fees or failure to meet continuing competency requirements as required by the department pursuant to section 71-3507.

~~(5)~~ (6) No applicant for a license as a limited radiographer may take the examination for licensure, or for licensure for any specific anatomical region, more than three times without first waiting a period of one year after the last unsuccessful attempt of the examination and submitting proof to the department of completion of continuing competency activities as required by the department pursuant to section 71-3507 for each subsequent attempt.

~~(6)~~ (7) The department shall establish and collect fees as provided in section 71-162 for the implementation of this section and section 71-3515.01, including an examination fee, initial and renewal fees for licenses for persons performing medical radiography, and a fee for approval of courses of instruction.

Sec. 106. Section 71-3516, Reissue Revised Statutes of Nebraska, is amended to read:

71-3516 (1) The department shall have the authority in the event of an emergency affecting occupational or public health and safety or the environment to impound or order the impounding of sources of radiation in the possession of any person who is not equipped to observe or fails to observe the provisions of the Radiation Control Act or any rules or regulations issued pursuant to such act.

(2) Any source of radiation impounded by the department is declared to be a common nuisance and cannot be subject to a replevin action.

(3) Possession of an impounded source of radiation shall be determined by section 107 of this act.

Sec. 107. (1) The department shall keep any source of radiation impounded under section 71-3516 for as long as it is needed as evidence for any hearing.

(2) Prior to the issuance of an order of disposition for an impounded source of radiation, the department shall notify in writing any person, known by the department to claim an interest in the source of radiation, that the department intends to dispose of the source of radiation. Notice shall be served by personal service, by certified or registered mail to the last-known address of the person, or by publication. Notice by publication shall only be made if personal service or service by mail cannot be effectuated.

(3) Within fifteen days after service of the notice under subsection (2) of this section, any person claiming an interest in the impounded source of radiation may request, in writing, a hearing before the department to determine possession of the source of radiation. The hearing shall be held in accordance with rules and regulations adopted and promulgated by the department. If the department determines that the person claiming an interest in the source of radiation has proven by a preponderance of the evidence that such person (a) had not used or intended to use the source of radiation in violation of the Radiation Control Act, (b) has an interest in the source of radiation acquired in good faith as an owner, a lien holder, or otherwise, and (c) has the authority under the act to possess such source of radiation, the department shall order that possession of the source of radiation be given to such person. If possession of the impounded source of radiation is not given to the person requesting the hearing, such person may appeal the decision of

the department, and the appeal shall be in accordance with the Administrative Procedure Act. If possession of the impounded source of radiation is not given to the person so appealing, the department shall order such person to pay for the costs of the hearing, storage fees, and any other reasonable and necessary expenses related to the impounded source of radiation.

(4) If possession of the impounded source of radiation is not given to the person requesting the hearing under subsection (3) of this section, the department shall issue an order of disposition for the source of radiation and shall dispose of the source of radiation as directed in the order. Disposition methods are at the discretion of the department and may include, but are not limited to, (a) sale of the source of radiation to a person authorized to possess the source of radiation under the act, (b) transfer to the manufacturer of the source of radiation, or (c) destruction of the source of radiation. The order of disposition shall be considered a transfer of title of the source of radiation.

(5) If expenses related to the impounded source of radiation are not paid under subsection (3) of this section, the department shall pay such expenses from:

(a) Proceeds from the sale of the source of radiation, if sold; or

(b) Available funds in the Department of Health and Human Services Regulation and Licensure Cash Fund.

Sec. 108. Section 71-3519, Revised Statutes Supplement, 2005, is amended to read:

71-3519 Sections 71-3501 to 71-3520 and section 107 of this act shall be known and may be cited as the Radiation Control Act.

Sec. 109. Section 79-1902, Reissue Revised Statutes of Nebraska, is amended to read:

79-1902 (1) The State Department of Education, in cooperation with the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support shall develop a packet entitled "Learning Begins at Birth" to be given to the parents of each child born in this state on and after January 1, 2003.

(2) The packet shall contain information about child development, child care, how children learn, children's health including, on and after the operative date of this section, information on the prevention of sudden infant death syndrome and shaken baby syndrome, services available to children and parents, and any other information deemed relevant by the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, the Department of Health and Human Services Finance and Support, or the State Department of Education. The State Department of Education shall indicate which information in the packet is appropriate for the parents of infants, for the parents of toddlers, and for the parents of preschoolers.

(3) The State Department of Education shall develop a variety of types of the packet, based on the needs of parents. The information in the packets may be in the form of printed material or in the form of video tapes, audio cassettes, or other appropriate media.

Sec. 110. Section 80-315, Reissue Revised Statutes of Nebraska, is amended to read:

80-315 (1) The Grand Island Veterans' Home, the Norfolk Veterans' Home, the Thomas Fitzgerald Veterans' Home, and the Western Nebraska Veterans' Home are established. On July 1, 2007, the Eastern Nebraska Veterans' Home is established. The State of Nebraska shall maintain the homes as provided in sections 80-314 to 80-331.

(2) The veterans' home known as the Thomas Fitzgerald Veterans' Home as of the operative date of this section shall continue to be known by that name until July 1, 2007. On and after July 1, 2007, the veterans' home shall be known as the Eastern Nebraska Veterans' Home.

Sec. 111. Section 81-647, Reissue Revised Statutes of Nebraska, is amended to read:

81-647 (1) All data obtained from medical records of individual patients is for the confidential use of the department and the private or public persons or entities that the department determines may view such records as provided in sections 81-663 to 81-675.

(2) The department may approve individuals or entities to obtain access to case-specific data or case-specific and patient-identifying data to assist in their research for prevention, cure, or control of cancer. Any information released from the cancer registry shall be disclosed as provided in sections 81-663 to 81-675.

(3) For purposes of protecting the public health, local health departments in Nebraska, health departments or cancer registries located in other states, and the Centers for Disease Control and Prevention and the

National Cancer Institute of the United States Department of Health and Human Services or their successors may have access to the data contained in the cancer registry upon the department's approval based on the entity's written application, ~~and compliance with the confidentiality, nondisclosure, and patient contact provisions of sections 81-663 to 81-675.~~

Sec. 112. Section 81-668, Reissue Revised Statutes of Nebraska, is amended to read:

81-668 All case-specific and patient-identifying data obtained from medical records of individual patients shall be for the confidential use of the department, those reporting data to the department, and the public health agencies and approved researchers that the department determines may view such records in order to carry out the intent of sections 81-663 to 81-675. Such information shall be privileged and shall not otherwise be divulged or made public so as to disclose the identity of an individual whose medical records and health information have been used for acquiring such data. Aggregate data collected shall be open and accessible to the public, and such information shall not be considered medical records pursuant to section 84-712.05. The cost of data retrieval and data processing shall be paid by the data requester.

Case-specific and patient-identifying data may be released to those individuals or entities who have reported information to the department. Such data may be released for the purpose of confirming the accuracy of the data provided and to coordinate information among sources.

Sec. 113. Section 81-671, Reissue Revised Statutes of Nebraska, is amended to read:

81-671 (1) Except as otherwise provided by the law governing a specific medical record and health information registry, the department may release information contained in a registry to official public health departments and agencies as follows:

~~(1)~~ (a) Upon request by an official local health department within the State of Nebraska, the department may release such data to the pertaining to residents within the jurisdiction of the requesting local health department. The official local health department shall not contact patients using data received under sections 81-663 to 81-675 without approval by the department of an application made pursuant to section 81-666; and

~~(2)~~ (b) Upon approval of an application by federal, state, or local official public health agencies made pursuant to ~~such~~ section 81-666, the department may release such data.

(2) The receiving agency shall not further disclose such data to any third party but may publish aggregate statistical reports, except that no patient-identifying data shall be divulged, made public, or released to any public or private person or entity. The receiving agency shall comply with the patient contact provisions of sections 81-663 to 81-675. The receiving agency shall acknowledge the department and its medical record and health information registries in any publication in which information obtained from the medical record and health information registries is used.

(3) The release and acknowledgment provisions of this section do not apply to cancer registries located in another state which receive data through approved data exchange agreements.

Sec. 114. Section 81-1316, Revised Statutes Cumulative Supplement, 2004, is amended to read:

81-1316 (1) All agencies and personnel of state government shall be covered by sections 81-1301 to 81-1319 and shall be considered subject to the State Personnel System, except the following:

- (a) All personnel of the office of the Governor;
- (b) All personnel of the office of the Lieutenant Governor;
- (c) All personnel of the office of the Secretary of State;
- (d) All personnel of the office of the State Treasurer;
- (e) All personnel of the office of the Attorney General;
- (f) All personnel of the office of the Auditor of Public Accounts;
- (g) All personnel of the Legislature;
- (h) All personnel of the court systems;
- (i) All personnel of the Board of Educational Lands and Funds;
- (j) All personnel of the Public Service Commission;
- (k) All personnel of the Nebraska Brand Committee;
- (l) All personnel of the Commission of Industrial Relations;
- (m) All personnel of the State Department of Education;
- (n) All personnel of the Nebraska state colleges and the Board of Trustees of the Nebraska State Colleges;
- (o) All personnel of the University of Nebraska;
- (p) All personnel of the Coordinating Commission for Postsecondary Education;

(q) All personnel of the Governor's Policy Research Office, but not to include personnel within the State Energy Office;

(r) All personnel of the Commission on Public Advocacy;

(s) All agency heads;

(t) The Director of Medical Services established under section 83-125, the director of the Division of Veterans Homes created in section 80-314, and the chief executive officers of the Beatrice State Developmental Center, Lincoln Regional Center, Norfolk Regional Center, Hastings Regional Center, Grand Island Veterans' Home, Norfolk Veterans' Home, Thomas Fitzgerald Veterans' Home prior to July 1, 2007, and the Eastern Nebraska Veterans' Home on and after July 1, 2007, Western Nebraska Veterans' Home, Youth Rehabilitation and Treatment Center-Kearney, and Youth Rehabilitation and Treatment Center-Geneva;

(u) All personnel employed as pharmacists, physicians, psychiatrists, or psychologists of the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, and the Department of Health and Human Services Regulation and Licensure; and

(v) Deputies and examiners of the Department of Banking and Finance and the Department of Insurance as set forth in sections 8-105 and 44-119, except for those deputies and examiners who remain in the State Personnel System.

(2) At each agency head's discretion, up to the following number of additional positions may be exempted from the State Personnel System, based on the following agency size categories:

| Number of Agency Employees | Number of Noncovered Positions |
|-------------------------------|-----------------------------------|
| less than 25 | 0 |
| 25 to 100 | 1 |
| 101 to 250 | 2 |
| 251 to 500 | 3 |
| 501 to 1000 | 4 |
| 1001 to 2000 | 5 |
| 2001 to 3000 | 8 |
| 3001 to 4000 | 11 |
| 4001 to 5000 | 14 |
| over 5000 | 17 |

The purpose of having such noncovered positions shall be to allow agency heads the opportunity to recruit, hire, and supervise critical, confidential, or policymaking personnel without restrictions from selection procedures, compensation rules, career protections, and grievance privileges. Persons holding the noncovered positions shall serve at the pleasure of the agency head and shall be paid salaries set by the agency head.

(3) No changes to this section or to the number of noncovered positions within an agency shall affect the status of personnel employed on the date the changes become operative without their prior written agreement. A state employee's career protections or coverage by personnel rules and regulations shall not be revoked by redesignation of the employee's position as a noncovered position without the prior written agreement of such employee.

Sec. 115. Section 81-3007.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-3007.01 (1) The departments are authorized to adopt and promulgate rules and regulations which prescribe standards and procedures for access to and security of confidential information among the departments, within each department, and with the Policy Secretary system chief administrative officer appointed under section 81-3008. These include standards for collection, maintenance, and use of information in electronic or other storage media. Procedures for disclosure of confidential information among the departments and with the Policy Secretary system chief administrative officer shall include a determination by the Policy Cabinet or its designees on whether confidential information should be shared among the

departments and with the Policy Secretary system chief administrative officer. Such determinations may take the form of interagency agreements. In making the determination, the following factors shall be considered:

(a) The law governing the confidentiality of the information and the original purpose for which the information was collected;

(b) The potential for harm to an individual if the disclosure is made;

(c) Whether the disclosure will enhance the coordination of policy development, service provision, eligibility determination, program management, quality assurance, or financial and support services;

(d) Whether the information is a trade secret, academic or scientific research work which is in progress and unpublished, or other proprietary or commercial information;

(e) Any limitations placed on the use of the information by the original source of the information;

(f) Whether the proposed use is for a bona fide research project or study, the procedures and methodology of which meet the standards for research in the particular body of knowledge;

(g) The security of the information, including the scope of access, ongoing security, publication, and disposal of the information at the end of its use;

(h) The degree to which aggregate or summary data may identify an individual whose privacy would otherwise be protected; and

(i) Whether such information constitutes criminal intelligence information maintained by correctional or law enforcement authorities.

(2) Otherwise confidential information may be disclosed among the departments and with the Policy Secretary system chief administrative officer pursuant to subsection (1) of this section if not expressly prohibited by law. Such disclosure shall not be considered a public disclosure or make the record a public record. Any further disclosure may be made only if permitted by law or department policy governing the originating department.

The departments and the Policy Secretary system chief administrative officer shall observe confidentiality of human resources information and employment records, except that the departments shall act and be considered to be one department for purposes of human resources issues, employment records, and related matters.

(3) All officials and employees shall be informed regarding laws, rules and regulations, and policies governing confidential information and acknowledge receipt of that information.

Sec. 116. Section 81-3008, Revised Statutes Cumulative Supplement, 2004, is amended to read:

81-3008 (1) The Governor shall appoint a Policy Secretary chief administrative officer for the Nebraska Health and Human Services System to report to the Governor and to serve full time at the pleasure of the Governor. The Policy Secretary chief administrative officer shall be subject to confirmation by a majority vote of the members of the Legislature.

(2) The Policy Secretary chief administrative officer shall:

(a) Encourage and direct initiatives and collaboration in the system;

(b) Facilitate joint planning initiatives in the system;

(c) Coordinate budget, research, and data collection efforts to insure effectiveness of the system;

(d) Ensure that the Appropriations Committee of the Legislature is provided any information the committee requires to make funding determinations and budget recommendations to the Legislature, including, but not limited to, specific program budgets, internal budget requests, fiscal reports, and appearances by department, division, program, and subprogram directors before the committee to present department, division, program, and subprogram budget requests; and

(e) Recommend to the Legislature and the Governor legislation he or she deems necessary or appropriate.

~~(2) On and after January 1, 2007, the Governor may also designate the Policy Secretary to serve as the chief administrative officer for the Nebraska Health and Human Services System.~~

Sec. 117. Section 81-3009, Revised Statutes Cumulative Supplement, 2004, is amended to read:

81-3009 The directors of the departments, the Policy Secretary system chief administrative officer appointed under section 81-3008, and the chief medical officer, if one is appointed under section 81-3201, shall be known as the Policy Cabinet of the Nebraska Health and Human Services System. Any reference to the Policy Cabinet in the Nebraska Health and Human Services System Act shall be to such persons. The Policy Cabinet shall work to

achieve policy outcomes through development of policy objectives and strategic plans, to prepare and recommend budgets, to develop and establish consistent priorities and policies for allocation and distribution of resources, and to integrate and improve services and programs administered by the system. The Policy Secretary system chief administrative officer shall serve as the chairperson of the Policy Cabinet.

Sec. 118. Sections 118 to 145 of this act shall be known and may be cited as the Physical Therapy Practice Act.

Sec. 119. The purpose of the Physical Therapy Practice Act is to update and recodify statutes relating to the practice of physical therapy. Nothing in the act shall be construed to expand the scope of practice of physical therapy as it existed prior to the operative date of this section.

Sec. 120. For purposes of the Physical Therapy Practice Act, the definitions found in sections 121 to 136 of this act apply.

Sec. 121. Approved educational program means a program for the education and training of physical therapists and physical therapist assistants approved by the board pursuant to section 144 of this act.

Sec. 122. Board means the Board of Physical Therapy.

Sec. 123. Department means the Department of Health and Human Services Regulation and Licensure.

Sec. 124. Direct supervision means supervision in which the supervising practitioner is physically present and immediately available and does not include supervision provided by means of telecommunication.

Sec. 125. Evaluation means the process of making clinical judgments based on data gathered from examination of a patient.

Sec. 126. General supervision means supervision either onsite or by means of telecommunication.

Sec. 127. Jurisdiction of the United States means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any American territory.

Sec. 128. Mobilization or manual therapy means a group of techniques comprising a continuum of skilled passive movements to the joints or related soft tissues, or both, throughout the normal physiological range of motion that are applied at varying speeds and amplitudes, without limitation.

Sec. 129. Non-treatment-related tasks means clerical, housekeeping, facility maintenance, or patient transportation services related to the practice of physical therapy.

Sec. 130. Physical therapist means a person licensed to practice physical therapy under the Physical Therapy Practice Act.

Sec. 131. Physical therapist assistant means a person certified as a physical therapist assistant under the Physical Therapy Practice Act.

Sec. 132. Physical therapy or physiotherapy means:

(1) Examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations, and disabilities or other conditions related to health and movement and, through analysis of the evaluative process, developing a plan of therapeutic intervention and prognosis while assessing the ongoing effects of the intervention;

(2) Alleviating impairment, functional limitation, or disabilities by designing, implementing, or modifying therapeutic interventions which may include any of the following: Therapeutic exercise; functional training in home, community, or work integration or reintegration related to physical movement and mobility; therapeutic massage; mobilization or manual therapy; recommendation, application, and fabrication of assistive, adaptive, protective, and supportive devices and equipment; airway clearance techniques; integumentary protection techniques; nonsurgical debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient-related instruction; but which does not include the making of a medical diagnosis;

(3) Purchasing, storing, and administering topical and aerosol medication in compliance with applicable rules and regulations of the Board of Pharmacy regarding the storage of such medication;

(4) Reducing the risk of injury, impairment, functional limitation, or disability, including the promotion and maintenance of fitness, health, and wellness; and

(5) Engaging in administration, consultation, education, and research.

Sec. 133. Physical therapy aide means a person who is trained under the direction of a physical therapist and who performs treatment-related and non-treatment-related tasks.

Sec. 134. Student means a person enrolled in an approved educational program.

Sec. 135. Testing means standard methods and techniques used to gather data about a patient. Testing includes surface electromyography and, subject to approval of the board, fine wire electromyography. Testing excludes diagnostic needle electromyography.

Sec. 136. Treatment-related tasks means activities related to the practice of physical therapy that do not require the clinical decisionmaking of a physical therapist or the clinical problem solving of a physical therapist assistant.

Sec. 137. (1) No person may practice physical therapy, hold oneself out as a physical therapist or physiotherapist, or use the abbreviation PT in this state without being licensed by the department. No person may practice as a physical therapist assistant, hold oneself out as a physical therapist assistant, or use the abbreviation PTA in this state without being certified by the department.

(2) A physical therapist may use the title physical therapist or physiotherapist and the abbreviation PT in connection with his or her name or place of business. A physical therapist assistant may use the title physical therapist assistant and the abbreviation PTA in connection with his or her name.

(3) No person who offers or provides services to another or bills another for services shall characterize such services as physical therapy or physiotherapy unless such services are provided by a physical therapist or a physical therapist assistant acting under the general supervision of a physical therapist.

Sec. 138. The following classes of persons shall not be construed to be engaged in the unauthorized practice of physical therapy:

(1) A member of another profession who is credentialed by the department and who is acting within the scope of practice of his or her profession;

(2) A student in an approved educational program who is performing physical therapy or related services within the scope of such program and under the direct supervision of a physical therapist;

(3) A person practicing physical therapy or as a physical therapist assistant in this state pursuant to federal regulations for state licensure of health care providers for the United States Armed Forces, the United States Public Health Service, or the United States Department of Veterans Affairs;

(4) A person credentialed to practice physical therapy or as a physical therapist assistant in another jurisdiction of the United States or in another country who is teaching physical therapy or demonstrating or providing physical therapy or related services in connection with an educational program in this state;

(5) A person credentialed to practice physical therapy in another jurisdiction of the United States or in another country who, by contract or employment, is providing physical therapy or related services in this state to individuals affiliated with established athletic teams, athletic organizations, or performing arts companies while such teams, organizations, or companies are present and temporarily practicing, competing, or performing in this state; or

(6) A person employed by a school district, educational service unit, or other public or private educational institution or entity serving pre-kindergarten through twelfth grade students who is providing personal assistance services, including mobility and transfer activities, such as assisting with ambulation with and without aids; positioning in adaptive equipment; application of braces; encouraging active range-of-motion exercises; assisting with passive range-of-motion exercises; assisting with transfers with or without mechanical devices; and such other personal assistance services based on individual needs as are suitable to providing an appropriate educational program.

Sec. 139. Section 71-2803, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-2803~~ Every applicant for a license to practice physical therapy shall:

(1) Present proof of completion of an approved educational program; ~~as defined in section 71-2804;~~

(2) In the case of an applicant who has been trained as a physical therapist in a foreign country, (a) present documentation of completion of a course of professional instruction substantially equivalent to an approved program accredited by the ~~American Physical Therapy Association Commission on Accreditation in Physical Therapy Education~~ or by an equivalent accrediting agency as determined by the ~~Board of Physical Therapy board~~ and (b) present proof of proficiency in the English language; and

(3) ~~Except as provided in section 71-2805,~~ successfully

complete an examination approved by the department ~~on the~~ upon recommendation of the board.

Sec. 140. Every applicant for a certificate to practice as a physical therapist assistant shall:

(1) Present proof of completion of an approved educational program;
and

(2) Successfully complete an examination approved by the department upon recommendation of the board.

Sec. 141. Section 71-2810, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-2810 Notwithstanding any other provisions of law, a~~ (1) A physical therapist assistant may perform physical therapy services ~~when he or she renders such services~~ under the general supervision of a licensed physical therapist, ~~or group of licensed physical therapists approved by the board,~~ except that no physical therapist assistant shall perform the following:

~~(1) (a) Interpretation of physician referrals;~~
~~(2) Plan treatment programs (b) Development of a plan of care;~~
~~(3) (c) Initial evaluations or reevaluation of patients;~~
~~(4) (d) Readjustment of treatment programs a plan of care without consultation with the certified and licensed supervising physical therapist;~~
or

~~(5) (e) Discharge planning for patients. Tests and measurements, with the exception of goniometry and functional muscle testing;~~

~~(6) Home instructions to patients or families;~~

~~(7) Joint assessment and mobilization; or~~

~~(8) Complex neurodevelopmental treatments.~~

(2) A physical therapist may provide general supervision for no more than two physical therapist assistants. A physical therapist shall not establish a satellite office at which a physical therapist assistant provides care without the general supervision of the physical therapist.

(3) A physical therapist shall reevaluate or reexamine on a regular basis each patient receiving physical therapy services from a physical therapist assistant under the general supervision of the physical therapist.

(4) A supervising physical therapist and the physical therapist assistant under general supervision shall review the plan of care on a regular basis for each patient receiving physical therapy services from the physical therapist assistant.

(5) A physical therapist assistant may document physical therapy services provided by the physical therapist assistant without the signature of the supervising physical therapist.

(6) A physical therapist assistant may act as a clinical instructor for physical therapist assistant students in an approved educational program.

Sec. 142. (1) For each patient under his or her care, a physical therapist shall:

(a) Be responsible for managing all aspects of physical therapy services provided to the patient and assume legal liability for physical therapy and related services provided under his or her supervision;

(b) Provide an initial evaluation and documentation of the evaluation;

(c) Provide periodic reevaluation and documentation of the reevaluation;

(d) Provide documentation for discharge, including the patient's response to therapeutic intervention at the time of discharge; and

(e) Be responsible for accurate documentation and billing for services provided.

(2) For each patient under his or her care on each date physical therapy services are provided to such patient, a physical therapist shall:

(a) Provide all therapeutic interventions that require the expertise of a physical therapist; and

(b) Determine the appropriate use of physical therapist assistants or physical therapy aides.

Sec. 143. A physical therapy aide may perform treatment-related and non-treatment-related tasks under the supervision of a physical therapist or a physical therapist assistant.

Sec. 144. Section 71-2804, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-2804 The board may approve programs for~~ For purposes of sections 71-2801 to 71-2823, approved educational program shall mean a program of physical therapy or physical therapist assistant education and training, approved by the Board of Physical Therapy. Such approval may be based on the program's accreditation by the American Physical Therapy Association Commission on Accreditation in Physical Therapy Education or by equivalent

standards established by the board.

Sec. 145. Section 71-2807, Reissue Revised Statutes of Nebraska, is amended to read:

71-2807 The Board of Physical Therapy shall, with the approval of the department, adopt and promulgate rules and regulations as necessary for the administration of sections 71-2801 to 71-2823. Such rules and regulations shall include, but not be limited to, a definition for onsite supervision of a physical therapist assistant and the proper utilization of such assistant by a physical therapist and what constitutes an emergency not requiring onsite supervision of a licensed physical therapist. The department, upon recommendation of the board, shall adopt and promulgate rules and regulations to carry out the Physical Therapy Practice Act. All rules and regulations adopted and promulgated under this section prior to the operative date of this section shall be effective until revised, amended, repealed, or nullified pursuant to law.

Sec. 146. Section 83-107.01, Reissue Revised Statutes of Nebraska, is amended to read:

83-107.01 The official names of the state institutions under the supervision of the Department of Health and Human Services shall be as follows: (1) Beatrice State Developmental Center, (2) Lincoln Regional Center, (3) Norfolk Regional Center, (4) Hastings Regional Center, (5) Grand Island Veterans' Home, (6) Norfolk Veterans' Home, ~~(7) Thomas Fitzgerald Veterans' Home,~~ ~~(8)~~ (7) Western Nebraska Veterans' Home, ~~(9)~~ (8) Youth Rehabilitation and Treatment Center-Kearney, and ~~(10)~~ (9) Youth Rehabilitation and Treatment Center-Geneva.

The official name of the state institution under the supervision of the Department of Health and Human Services shall be the Thomas Fitzgerald Veterans' Home prior to July 1, 2007, and, on and after July 1, 2007, shall be the Eastern Nebraska Veterans' Home.

Sec. 147. The Legislature finds that sudden infant death syndrome is the sudden, unexpected death of an apparently healthy infant less than one year of age that remains unexplained after the performance of a complete postmortem investigation, including an autopsy, an examination of the scene of death, and a review of the medical history. The Legislature further finds that, despite the success of prevention efforts, sudden infant death syndrome has been the second leading cause of death for infants in Nebraska for the last twenty years. Although there are no known ways to prevent sudden infant death syndrome in all cases, there are steps that parents and caregivers can take to reduce the risk of sudden infant death. The Legislature further finds and declares that there is a present and growing need to provide additional programs aimed at reducing the number of cases of sudden infant death syndrome in Nebraska.

Sec. 148. The Legislature finds that shaken baby syndrome is the medical term used to describe the violent shaking of an infant or child and the injuries or other results sustained by the infant or child. The Legislature further finds that shaken baby syndrome may occur when an infant or child is violently shaken as part of a pattern of abuse or because an adult has momentarily succumbed to the frustration of responding to a crying infant or child. The Legislature further finds that these injuries can include brain swelling and damage, subdural hemorrhage, mental retardation, or death. The Legislature further finds and declares that there is a present and growing need to provide programs aimed at reducing the number of cases of shaken baby syndrome in Nebraska.

Sec. 149. Every hospital, birth center, or other medical facility that discharges a newborn child shall request that each maternity patient and father of a newborn child, if available, view a video presentation and read printed materials, approved by the Department of Health and Human Services, on the dangers of shaking infants and children, the symptoms of shaken baby syndrome, the dangers associated with rough handling or the striking of an infant, safety measures which can be taken to prevent sudden infant death, and the dangers associated with infants sleeping in the same bed with other children or adults. After viewing the presentation and reading the materials or upon a refusal to do so, the hospital, birth center, or other medical facility shall request that the mother and father, if available, sign a form stating that he or she has viewed and read or refused to view and read the presentation and materials. Such presentation, materials, and forms may be provided by the department.

Sec. 150. The Department of Health and Human Services shall conduct public awareness activities designed to promote the prevention of sudden infant death syndrome and shaken baby syndrome. The public awareness activities may include, but not be limited to, public service announcements, information kits and brochures, and the promotion of preventive telephone

hotlines.

Sec. 151. On and after the operative date of this section, positions of employment in the Department of Health and Human Services related to the powers, duties, and functions transferred to the Department of Health and Human Services Finance and Support pursuant to this legislative bill are transferred to the Department of Health and Human Services Finance and Support. For purposes of the transition, employees of the Department of Health and Human Services shall be considered employees of the department to which their positions were transferred and shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the department or the Director of Finance and Support from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

Sec. 152. On the operative date of this section, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Department of Health and Human Services pertaining to the duties and functions transferred to the Department of Health and Human Services Finance and Support by this legislative bill shall become the property of such department.

Sec. 153. On and after the operative date of this section, whenever the Department of Health and Human Services is referred to or designated by any contract or other document in connection with the duties and functions transferred to the Department of Health and Human Services Finance and Support by this legislative bill, such reference or designation shall apply to such department. All contracts entered into by the Department of Health and Human Services prior to the operative date of this section in connection with the duties and functions transferred to the Department of Health and Human Services Finance and Support are hereby recognized, with such department succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, gifts, trusts, grants, and any appropriations of funds from prior fiscal years available to satisfy obligations incurred under such contracts shall be transferred and appropriated to the succeeding department for the payments of such obligations. All licenses, certificates, registrations, permits, seals, or other forms of approval issued by the Department of Health and Human Services in accordance with functions or duties transferred to the Department of Health and Human Services Finance and Support shall remain valid as issued under the name of the original department unless revoked or their effectiveness is otherwise terminated as provided by law. All documents and records transferred, or copies of the same, may be authenticated or certified by the Department of Health and Human Services Finance and Support for all legal purposes.

Sec. 154. All rules, regulations, and orders of the Department of Health and Human Services adopted prior to the operative date of this section in connection with the powers, duties, and functions transferred to the Department of Health and Human Services Finance and Support under this legislative bill shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to the operative date of this section or which could have been commenced prior to that date, by or against the Department of Health and Human Services, or any director or employee thereof in such director's or employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from such department to the Department of Health and Human Services Finance and Support.

Sec. 155. Sections 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 63, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 86, 87, 88, 89, 90, 151, 152, 153, 154, and 157 of this act become operative on July 1, 2006. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 81, 158, and 161 of this act become operative on August 1, 2006. Sections 115, 116, 117, and 159 of this act become operative on January 1, 2007. Sections 38, 39, 40, 41, 50, 62, 64, 79, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 160, and 162 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 156. Original sections 68-1713, 68-1721, 71-193.01, 71-193.02,

71-193.03, 81-647, 81-668, and 81-671, Reissue Revised Statutes of Nebraska, sections 71-113 and 81-1316, Revised Statutes Cumulative Supplement, 2004, and section 71-1,104.01, Revised Statutes Supplement, 2005, are repealed.

Sec. 157. Original sections 43-522, 43-524, 43-2505, 43-2507, 43-2508, 43-2509, 43-2510, 43-2512, 43-3401, 68-1204, 68-1205, 68-1206, 68-1402, 68-1403, 68-1405, 68-1503, 68-1514, 68-1521, 68-1522, and 68-1523, Reissue Revised Statutes of Nebraska, sections 28-356, 28-372, 28-380, 71-612, 71-617.15, 71-627, 71-628, and 71-634, Revised Statutes Cumulative Supplement, 2004, and section 68-1021.01, Revised Statutes Supplement, 2005, are repealed.

Sec. 158. Original sections 71-7401, 71-7402, 71-7403, 71-7404, 71-7405, 71-7406, 71-7407, 71-7408, 71-7409, 71-7410, 71-7411, 71-7412, 71-7413, 71-7416, 71-7417, 71-7420, 71-7422, 71-7423, 71-7424, 71-7425, and 71-7426, Reissue Revised Statutes of Nebraska, and section 71-162, Revised Statutes Cumulative Supplement, 2004, are repealed.

Sec. 159. Original section 81-3007.01, Reissue Revised Statutes of Nebraska, and sections 81-3008 and 81-3009, Revised Statutes Cumulative Supplement, 2004, are repealed.

Sec. 160. Original sections 43-2606, 43-3402, 71-2225, 71-2803, 71-2804, 71-2807, 71-2810, 71-3515.01, 71-3515.02, 71-3516, 79-1902, 80-315, and 83-107.01, Reissue Revised Statutes of Nebraska, sections 20-162, 71-801, 71-802, 71-814, 71-1910, 71-1911, 71-1911.02, 71-1914, and 71-1916, Revised Statutes Cumulative Supplement, 2004, and sections 71-101, 71-815, 71-816, 71-1721, 71-3503, and 71-3519, Revised Statutes Supplement, 2005, are repealed.

Sec. 161. The following sections are outright repealed: Sections 71-7414, 71-7415, 71-7418, 71-7419, and 71-7421, Reissue Revised Statutes of Nebraska.

Sec. 162. The following sections are outright repealed: Sections 71-2801, 71-2802, 71-2803.01, 71-2805, 71-2808, 71-2809, 71-2811, 71-2812, 71-2814, 71-2815, 71-2816, 71-2817, 71-2819, 71-2820, 71-2821, 71-2822, and 71-2823, Reissue Revised Statutes of Nebraska, sections 71-819, 71-820, and 71-1917, Revised Statutes Cumulative Supplement, 2004, and section 71-813, Revised Statutes Supplement, 2005.

Sec. 163. Since an emergency exists, this act takes effect when passed and approved according to law.